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8/14/76

APPROVED

JUL 14 1976

Statement issued
7/14/76

THE WHITE HOUSE

ACTION

WASHINGTON

Last Day: July 14

July 12, 1976

MEMORANDUM FOR

THE PRESIDENT

FROM:

JIM CANNON

SUBJECT:

H.R. 12438 - Department of
Defense Appropriation Authorization
Act, 1977

archive
7/15/76

Attached for your consideration is H.R. 12438, sponsored by Representatives Wilson and Price.

The enrolled bill authorizes appropriations of \$32,522,202,000 for FY 77 for Defense activities relating to procurement of weapons systems and research, development, test and evaluation. The bill also prescribes military reserve, active duty, student training and Defense civilian personnel strength levels for 1977 and contains a number of riders.

A detailed discussion of the provisions of the enrolled bill is provided in OMB's enrolled bill report at Tab A.

OMB, NSC, Max Friedersdorf, Counsel's Office (Lazarus) and I recommend approval of the enrolled bill.

RECOMMENDATION

That you sign H.R. 12438 at Tab B.





EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

JUL 9 1976

MEMORANDUM FOR THE PRESIDENT

Subject: Enrolled Bill H.R. 12438 - Department of
Defense Appropriation Authorization Act,
1977
Sponsors - Rep. Price (D) Illinois and
Rep. Wilson (R) California

Last Day for Action

July 14, 1976 - Wednesday

Purpose

Authorizes appropriations of \$32,522,202,000 for fiscal year 1977 for Defense activities relating to procurement of weapons systems and research, development, test and evaluation (RDT&E); prescribes military reserve, active duty, student training and Defense civilian personnel strength levels for 1977; and contains a number of riders.

Agency Recommendations

Office of Management and Budget	Approval
Department of Defense	Approval
National Security Council	Approval (Informally)
Civil Service Commission	Approval
Department of Transportation	No objection
Department of Commerce	No objection
Central Intelligence Agency	No objection
General Services Administration	No objection
Department of Housing and Urban Development	Expresses concern with Section 804
Department of Health, Education and Welfare	Defers to Defense

Discussion

This bill provides the annual authorization of appropriations required by existing law for procurement and certain other activities of the Department of Defense.

Overall, the bill authorizes approximately \$1.7 billion less than the amended request of \$34,218,765,000 for fiscal year 1977. The differences by major program category are as follows:

	1977 (in millions)		
	<u>Amended Request</u>	<u>Congressional Action</u>	<u>Difference</u>
Procurement	\$23,160.7	\$22,046.2	\$-1,114.5
Research, develop- ment, test and evaluation	11,058.1	10,476.0	-582.1

Major congressional changes incorporated in the bill which are particularly troublesome include:

- failure to approve certain defense programs urgently required for national defense; and,
- addition of certain programs not essential to the nation's present defense needs.

In addition to these problems, Congress has failed to act favorably on certain other legislative proposals designed to restrain growth in Defense costs without impairing Defense capabilities.

Accordingly, in conjunction with the Department of Defense, we are preparing a proposed signing statement which will shortly be transmitted to you separately. This statement will set forth these problems and call on Congress to take appropriate actions to remedy them.



A summary of congressional changes is presented in greater detail in the attached table. Some of the noteworthy, specific changes are discussed below.

Procurement

Significant reductions in the procurement category which are of high priority and should be resubmitted as a budget supplemental include:

- \$859 million for the DDG-47 conventionally powered destroyer carrying the new AEGIS fleet air defense missile system;
- \$521 million as a result of reducing the number of guided missile frigates from twelve to eight;
- \$170 million for advance procurement for a nuclear strike cruiser; and,
- \$136 million for Air Force F-16 fighter aircraft on the basis that funds are not planned to be used until fiscal year 1978.

Significant additions in the procurement category which are of lower priority and are not needed in 1977 include:

- \$357 million for one nuclear attack submarine;
- \$371 million for overhaul of the U.S.S. Long Beach and installation of initial platform for the AEGIS air defense system; and,
- \$66 million for six Navy A-6E attack aircraft. This production line has been proposed for closure.



Research, Development, Test and Evaluation (RDT&E)

Significant changes in the RDT&E category which are high priority and should be resubmitted in a budget supplemental include:

- the sea launched cruise missile for defense against other ships which was reduced by \$63 million to \$119 million; and,
- the \$200 million Navy budget amendment submitted in May for ship systems research and development which was not considered by the House and deleted without prejudice by the Senate.

As requested, the bill authorizes a fiscal year 1976 supplemental appropriation of \$8 million for RDT&E for repairs to the U.S.S. Belknap damaged in a Mediterranean collision. An additional \$213 million in repair and modernization funds requested for fiscal year 1976 is authorized for fiscal year 1977.

The appropriations authorized for procurement and research, development, test and evaluation include certain amounts earmarked for specific purposes and other restrictive provisions. While these provisions are not desirable, they create no significant problems.

Manpower Strengths

The bill authorizes an end strength of 2,092,600 in active duty military personnel, a reduction of 8,400 from the requested level.

Average strength floors for the reserve components are authorized as requested except for a reduction of 3,300 in the Army and an increase of 44,500 in the Naval Reserve. In your 1977 budget, you proposed a reduction from 102,000 to 52,000 in the average strength floor for the Naval Reserve. The bill, however, authorizes an average strength of not less than 96,500. You may wish to consider proposing deletion of the increase on the grounds that it is not essential to meet defense requirements.

Civilian direct hire strength was reduced by only 4,800. The Secretary of Defense is required to report to the Congress within sixty days on the allocation of the reduction to the military services.

Military student training loads are authorized as requested with the proviso that they be adjusted consistent with the manpower strengths of the active and reserve forces.

The sections of the bill authorizing manpower strengths also include certain other noteworthy provisions identical or similar to legislation proposed by the Administration. These would:

- permit the President to allocate military pay increases among the various components of military pay on an other than equal percentage basis. This will permit military pay to be adjusted so that the allowance for housing more nearly reflects the value of quarters provided by the military or the cost of housing obtained through the private sector. Authority for rebates is also provided in appropriate cases;
- limit to 60 days the amount of unused annual leave for which a member of the uniformed services may be reimbursed over the period of his career; and,
- extend to June 30, 1977, the authority to pay special bonuses to military and Public Health Service physicians who execute agreements to remain on active duty.

General Provisions

The bill also contains a number of riders, two of which raise concern. One would direct that the 1978 budget include 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." This provision would make the operation and maintenance appropriations of the Department unique since no other agencies may budget for inflation in their operation and maintenance appropriations. Various options with regard to this section are now being explored, ranging from full compliance to non-compliance based on the Budget and Accounting Act of 1921. Recommendations will be presented for your consideration during the 1978 budget review.

The other provision would amend the Federal Civil Defense Act of 1950 to (1) permit funds available to States under the Act to be used for emergency assistance for disasters other than those resulting from enemy attack; (2) authorize fiscal year 1977 appropriations of "such sums" as may be necessary to carry out the Act's provisions and require annual authorization of the civil defense budget in the future, and (3) extend permanently certain other authorities under the Act.

The most objectionable civil defense amendment is that which expands coverage of the Act to disasters not caused by enemy attack. It would permit funds appropriated to the Defense Civil Preparedness Agency (DCPA) to be used for non-Defense functions. This is directly contrary to your decision during the 1977 budget review to limit Defense civil defense funds to nuclear disaster preparedness. Furthermore, as the Department of Housing and Urban Development notes in its letter on the bill, this expanded authority could overlap existing disaster relief functions carried out by other Federal agencies such as HUD. HUD is also concerned that the amendment may give DCPA authority to provide emergency assistance even without the request of a State suffering a disaster or any formal finding by the DCPA as to the magnitude of a disaster and the necessity for assistance.

While this provision is highly undesirable, we note that it is an authorization and not a statutory requirement. Accordingly, it should be possible to ameliorate some of its potentially serious consequences through the budget process and the issuance of appropriate regulations. In any event, it is not sufficiently objectionable to warrant consideration of a veto of this vital authorization bill.

Other general provisions in the bill worth noting would:

- eliminate the 1 percent "kicker" from cost-of-living increases in annuities paid to uniformed services and CIA retirees. This provision would not become effective until the 1 percent add-on is eliminated from such adjustments made to Civil Service annuities;
- require the Secretary of Defense to consider "the cost, functions, quality, and availability of equipment to be procured" for U.S. forces in NATO in carrying out standardization of equipment with other NATO countries. The bill also imposes certain additional requirements and reports on the Department of Defense regarding the future development of equipment to enhance the standardization of U.S. and NATO equipment;
- require certain contracts for development or procurement of major defense systems to include deferred ordering clauses giving Defense the option to purchase related technical data and computer software packages from the contractor;
- increase from 1,200 to 1,600 the limit on the number of Junior ROTC units and allow more than one unit at any military institute; and
- express the sense of Congress that no action be taken to close any naval reserve training centers or facilities active as of March 1, 1976, until fiscal year 1977 appropriations for the Selected Reserve of the Naval Reserve are enacted into law.

James M. Frey
Assistant Director for
Legislative Reference



Enclosures

Department of Defense
Fiscal Year 1977 Authorization Bill (H.R. 12438)

Net Changes from Budget Request
(\$ in millions)

	<u>Amended Request</u>	<u>Authorization Bill</u>	<u>Net Change</u>
Procurement			
Aircraft	\$ 9,932.8	\$ 9,693.7	\$ -239.1
Missiles	4,455.6	4,240.3	-215.3
Naval Vessels	7,263.5	6,655.0	-608.5
Tracked Combat Vehicles	1,114.0	1,086.2	- 27.8
Torpedoes	251.8	236.8	- 15.0
Other Weapons	143.0	134.2	- 8.8
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Total Procurement	23,160.7	22,046.2	-1,114.5
Research, development, test and evaluation	11,058.1	10,476.0	-582.1
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TOTAL	\$34,218.8	\$32,522.2	-\$1,696.6

THE WHITE HOUSE

WASHINGTON

July 14, 1976

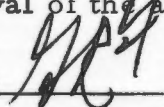
MR PRESIDENT:

Signing Statement for Enrolled Bill
H. R. 12438 - Department of Defense
Appropriation Authorization Act, 1977

The attached signing statment for the Defense
Appropriation Bill H. R. 12438 has been approved by
Defense, OMB, NSC, Max Friedersdorf and Counsel's
Office (Ed Schmults).

Your approval of the attached statement is requested.

Approve

 _____

Disapprove

STATEMENT BY THE PRESIDENT

Today I have signed into law legislation authorizing Fiscal Year 1977 appropriations of \$32.5 billion for Procurement and for Research and Development programs for the Department of Defense. While this authorization provides for many Defense activities essential for our national security, the bill still has a number of deficiencies.

It is noteworthy that this is the first Defense authorization bill in many years to be passed by the Congress in time to become law before the start of the fiscal year. I commend the Congress for their expeditious action which, by helping us to maintain the continuity of Defense management activities, assists us in our efforts to improve Defense management practices.

My FY 1977 total budget request for national defense is \$115 billion -- as it must be, given the adverse trends which have developed as a result of Congressional cuts in U.S. military expenditures. The Congress must cooperate if we are to be able to successfully arrest these trends in order to assure our own security and, in a real sense, peace and stability in the world.

In important respects, however, Congress has not faced up to the challenge. First, Congress has not approved a number of essential Defense programs. Second, Congress has added funds to the FY 1977 Budget for programs which are not needed in FY 1977. Finally, Congress has not yet acted upon certain of my legislative proposals which are necessary to permit the Defense Department to restrain manpower cost growth, reduce waste and inefficiency and to achieve economies. These three areas require remedial action by the Congress.

Programs Not Approved

Shipbuilding. Congress has failed to authorize \$1.7 billion requested for new ship programs that are needed to strengthen our maritime capabilities and assure freedom of the seas. In particular, they have denied funds for the lead ships for two essential production programs -- the nuclear strike cruiser and the conventionally-powered AEGIS destroyer -- and for four modern frigates. The FY 1977 program was proposed as the first step of a sustained effort to assure that the United States, along with its allies, can maintain maritime defense, deterrence, and freedom of the seas. I plan to resubmit budget requests for FY 1977 to cover these essential shipbuilding programs.

Other Programs. Congress has also failed to authorize nearly \$900 million requested for other Defense procurement and research and development programs. As with the shipbuilding program, I will resubmit the requests needed to meet our minimum national security requirements.

Programs Not Needed in FY 1977

At the same time that the Congress disapproved several programs which are vital for our national security, they added over \$1 billion to the original budget request for items for which I did not request funds in FY 1977. For example, Congress added:

- ° A fourth attack submarine (\$357 million) for which funds cannot be used in FY 1977 owing to shipyard capacity limitations.
- ° Conversion of the cruiser LONG BEECH (\$371 million) which can be readily postponed.
- ° Six Navy A-6E attack aircraft (\$66 million), which are not a high priority, particularly at the uneconomical production rate of six per year proposed by the Congress.

- ° Repair and modernization of the cruiser BELKNAP (\$213 million) damaged in a collision, for which funds should have been authorized prior to FY 1977.

I propose that Congress delete the funds for these programs in FY 1977, and authorize funds for repair of the BELKNAP in the current Transition Quarter. If the Congress does not act favorably on this request, then funds have to be added on top of the FY 1977 Defense budget, in order to avoid forcing out essential Defense activities.

Defense Management Economies

Finally, Congress has not enacted certain legislative proposals necessary to permit the Department of Defense to restrain manpower cost growth and to achieve other essential economies.

As estimated last January, the potential savings in Defense made possible by my proposals total over \$3 billion in FY 1977 and \$23 billion over the five-year period FY 1977-1981. About half of these savings can be achieved through administrative action by the President, and are being implemented. The remaining initiatives, however, require action by the Congress.

When submitting the budget request last January, I explained that if the Congress did not pass the needed legislation, it would be necessary to increase the budget request later in the year. I am pleased that some of the manpower initiatives falling within the jurisdiction of the two Armed Services Committees -- which produced this authorization bill -- were well received. The Post Office and Civil Service Committees, however, have been reluctant to act on the critical legislation needed to save over \$400 million in FY 1977 and over \$6 billion over the five-year period FY 1977-1981. Specific proposals within their jurisdiction include: (1) reform of the Wage Board System which, through its current system for calculating

pay raises, now overpays blue collar civilian employees; (2) elimination of the excessive 1% kicker in retired pay adjustments for civilians; and (3) elimination of dual compensation for reservists who are also Federal employees.

Furthermore, the Armed Services Committees have yet to enact legislation permitting the sale in FY 1977 of nearly \$750 million worth of commodities no longer needed in the strategic stockpile; the receipts from these sales would be an offset in the National Defense Budget, and without them the budget ceiling for Defense expenditures must be increased accordingly.

There has been a lot of talk about cutting waste in Defense spending. Without action by the Congress these economies cannot be achieved. Here is the opportunity to act.

These remaining actions to provide for greater efficiencies in the Defense budget should be approved. Because Congress apparently is indifferent to them, however, I have decided reluctantly to forward budget requests to cover the needed amounts. Failure by Congress either to enact legislation permitting the economy measures, or to provide the additional funds necessary would mean a severely unbalanced Defense program, which would be unacceptable.

I am determined that the U.S. National Security be fully adequate. It is up to the Congress to act promptly to provide the necessary funds.

Proposed Signing Statement
FY 1977 Defense Authorization Bill


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EXECUTIVE OFFICE OF THE PRESIDENT

OFFICE OF MANAGEMENT AND BUDGET

WASHINGTON, D.C. 20503

JUL 9 1976

MEMORANDUM FOR THE PRESIDENT

Subject: Enrolled Bill H.R. 12438 - Department of
Defense Appropriation Authorization Act,
1977
Sponsors - Rep. Price (D) Illinois and
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Last Day for Action

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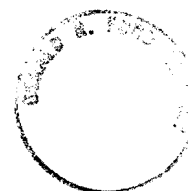


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July 14, 1976

From Defense

14 July 1976

Proposed Signing Statement, FY 1977 Defense Authorization Bill

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7/14

Can -

To add to the file,
please. Thanks.

Kate

July 14, 1976

JIM:

The President asked Scowcroft for this signing statement for the Defense Authorization Bill by 12:00 noon. It has been approved by NSC, OMB and Defense.

Don Ogilvie is waiting in my office for instructions.

OFFICE OF THE SECRETARY OF DEFENSE

July 14, 1976

Memo For James E. Connor

Attached is the Defense Authorization Statement which I discussed with you this morning.

Alan Woods
The Special Assistant

14 July 1976

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It is noteworthy that this is the first defense authorization bill in many years to be passed by the Congress in time to become law before the start of the fiscal year. I commend the Congress for their expeditious action which, by helping us to maintain the continuity of Defense management activities, assists us in our efforts to improve defense management practices.

My FY 1977 total Budget Request for National Defense is \$115 billion -- as it must be, given the adverse trends which have developed as a result of years of relative decline in real military spending on the part of the United States, and many years of real growth on the part of the Soviet Union. The Congress must cooperate if we are to be able to successfully arrest these trends in order to assure our own security and, in a real sense, peace and stability in the world.

In important respects, however, Congress has not faced up to the challenge. First, Congress has not approved a number of essential Defense programs. Second, Congress has added funds to the FY 1977 Budget for programs which are not needed in FY 1977. Finally, Congress has not yet acted upon certain of my legislative proposals which are

THE WHITE HOUSE

ACTION MEMORANDUM

WASHINGTON

LOG NO.:

Date: July 9

Time: 600pm

FOR ACTION: NSC/S *oh*
NSC/Erie *oh*
Ben Lazarus *oh*

cc (for information): Jack Marsh
Jim Cavanaugh
Ed Schmults

FROM THE STAFF SECRETARY

DUE: Date: July 12

Time: noon

SUBJECT:

H.R. 12838-Dept. of Defense Appropriation Authorization Act

ACTION REQUESTED:

For Necessary Action

For Your Recommendations

Prepare Agenda and Brief

Draft Reply

For Your Comments

Draft Remarks

REMARKS:

please return to judy johnston, ground floor west wing



PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.

If you have any questions or if you anticipate a delay in submitting the required material, please telephone the Staff Secretary immediately.

K. R. COLE, JR.
For the President



GENERAL COUNSEL OF THE DEPARTMENT OF DEFENSE

WASHINGTON, D. C. 20301

8 July 1976

Honorable James T. Lynn
Director, Office of Management
and Budget
Washington, D.C. 20503

Dear Mr. Lynn:

Reference is made to your request for the views of the Department of Defense with respect to the enrolled enactment of H.R. 12438, 94th Congress, 2nd Session, 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".

The total authorization for FY 1977 is \$32,522,202,000, which is \$1,696,563,000 less than the amount requested by the Department of Defense.

Congress added language to title I of the Act providing that, of the Navy and Marine Corps aircraft procurement authorization, not more than \$104.1 million shall be available only for the procurement of US-3A COD aircraft and \$65.8 million shall be available only for the procurement of the A-6E aircraft. None of the funds authorized for Navy missiles may be expended on the Sparrow AIM-7F program until the Secretary of Defense certifies to the Armed Services Committees that he has reviewed test and evaluation results for such missile and that it fulfills Navy and Air Force mission requirements and is combat effective. Also, of the Air Force missile procurement authorization, \$317 million shall be used only for the procurement of Minuteman III missiles and of the Army tracked combat vehicle authorization \$65.2 million shall be available for plant modernization and expansion for future XM-1 production but may be obligated on a specific production site only after competitive testing is complete and a winning United States contractor designated.

Title II authorizes appropriations for research, development, test and evaluation. In Section 201 language has been added restricting use of funds for Phase 2 engineering development of the Advanced Attack Helicopter until (1) the Secretary of the Army has selected the ammunition




for its 30 millimeter gun and (2) 30 days has expired after notification of the Armed Services Committees of such selection. Of the Navy RDT&E authorization, not to exceed \$2 million shall be available for the completion by June 30, 1977, of the advanced development stage of the Sparrow AIM-7F monopulse missile and \$15 million shall be available for the engineering development phase of such missile only if (1) tests fully demonstrate its ability to perform in accordance with specifications and requirements and (2) not less than \$5 million has been appropriated for, and the Secretaries of the Navy and Air Force have commenced development on, a new adverse weather medium range air-to-air missile. Section 202 provides an additional \$49 million to the Director of Defense Research and Engineering to be used only for research, development, test, and evaluation of the Trident missile system.

Section 301 of title III authorizes end-strengths for active duty personnel in each component. Section 302 amends 10 U.S.C. 138(c) to require an annual report on military bases, installations and facilities; base structure and force structure relationships; and identification and evaluation of base operating support costs. Section 303 amends military pay provisions (37 U.S.C. 1009) to permit the Secretary of Defense to distribute percentage increases among the various elements of compensation. Section 304 amends portions of title 37 to limit the aggregate termination leave payments which a member of the uniformed services may receive during his career. Section 305 extends to June 30, 1977, the termination date of certain special pay provisions for medical officers who execute active duty agreements.

Title IV authorizes average strengths for the Selected Reserve of each Reserve component of the armed forces.

Title V authorizes a single end-strength for civilian personnel for the entire Department of Defense and requires the Secretary of Defense to apportion the total among the Department of Defense components.

In title VI, section 601 authorizes military training student loads. However, it requires that such loads be adjusted "consistent with the manpower strengths provided in titles III, IV, and V" active, reserve, and civilian end-strengths respectively. Adjustments are to be apportioned by the Secretary of Defense. Section 602 establishes a community college of the Air Force in cooperation with civilian colleges and universities. Section 603 expresses the policy of the United States that the Navy and Merchant Marine work closely together "to promote the maximum integration of seapower forces of the Nation" and that steps must be taken to assure that NROTC programs be maintained at Federal and State merchant marine academies. Section 604 continues certain subsistence allowances for members of the Marine Corps officer candidate program to June 30, 1977.



Title VII provides the \$8 million supplemental FY 1976 appropriation authorization for Navy research, development, test, and evaluation. The amount was requested by the Department pursuant to the President's supplemental appropriation request for necessary repair and modernization of the U.S.S. Belknap.

Section 801 repeals certain retired pay provisions known as "the one percent kicker" for armed forces, Central Intelligence Agency, National Oceanic and Atmospheric Administration and Public Health retirees. This repeal is made conditional upon the repeal of similar legislation involving other retired government employees.

Section 802 amends section 814(a) of the Department of Defense Appropriation Authorization Act, 1976, which set forth U.S. policy on NATO equipment standardization by requiring consideration of the "cost, functions, quality, and availability of equipment to be procured" and the preparation of certain reports for Congress with respect to such policy.

Section 803 also deals with NATO standardization and provides in subsections (a) that weapons being developed for the NATO theater shall conform to a common NATO requirement, (b) that the objectives of standardization and interoperability would be enhanced by "inter-Allied procurement of arms and equipment" within NATO, that this would be facilitated by greater reliance on licensing and co-production agreements by NATO members and that, therefore, the Secretary of Defense, in conjunction with NATO member representatives shall attempt to identify areas for cooperative arrangements and negotiate purchase agreements pursuant to these ends and (c) that because the standardization of weapons and equipment on a "two-way street" basis will only work if European nations operate on a united and collective basis, Congress encourages them to accelerate present efforts to achieve European armaments collaboration.

Section 804 amends the Federal Civil Defense Act of 1950: (a) to acknowledge that the Civil Defense organizational structure can be effectively utilized to provide relief and assistance to people in the U.S. struck by disasters other than enemy attack, (b) to authorize fiscal year 1977 appropriations in such sums as may be necessary to carry out the provisions of the Act and require annual authorization thereafter, (c) to eliminate the termination dates of authorities for paying certain travel and per diem expenses, for procuring and maintaining certain devices and for paying state and local personnel and administrative expenses, and, (d) to authorize the use of funds available to states under the Act for providing emergency assistance for disasters other than enemy attack.

Section 805 requires that each contract for development or procurement of a major system (with certain specified exceptions) shall include a "deferred ordering clause" giving the Department of Defense the option to purchase from the contractor involved technical data and computer software packages relating to the system.

Section 806 requires that the President's fiscal year 1978 budget include amounts for operation and maintenance sufficient to meet foreseeable O&M inflation.

Section 807 increases the limit on the number of Junior ROTC units from 1,200 to 1,600 and allows more than one unit at any military institute.

Section 808 expresses the sense of Congress that the Secretary of the Navy not take action closing, disestablishing or terminating any naval reserve training centers or facilities active as of March 1, 1976 until fiscal year 1977 appropriations for the Selected Reserve of the Naval Reserve have been enacted into law.

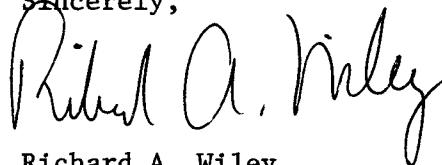
Section 809 requires a study and report to the Armed Services Committees not later than February 28, 1977, on whether greater utilization of civilian faculty may be desired at service academies and intermediate and senior war colleges.

Section 810 permits the assignment of 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.

Section 811 expresses Congressional support for the Armed Forces Institute of Pathology and amends title 10 to establish permanently such an institute as well as to establish a non-profit corporation known as the American Registry of Pathology.

Although a number of important programs - particularly in the Navy shipbuilding area - were denied by the Congress in their action on this legislation, the Department of Defense recommends that the President approve H.R. 12438 to provide the necessary authorization for a substantial portion of our military requirements. The Department is presently preparing amended requests to address the more critical programs which were not approved in this bill.

Sincerely,



Richard A. Wiley





UNITED STATES CIVIL SERVICE COMMISSION

WASHINGTON, D.C. 20415

CHAIRMAN

July 8, 1976

Honorable James T. Lynn
Director, Office of Management and Budget
Executive Office of the President
Washington, D. C. 20503

Attention: Assistant Director for
Legislative Reference

Dear Mr. Lynn:

This is in reply to your request for the Commission's views on enrolled bill, H.R. 12438, the Department of Defense Appropriation Authorization Act, 1977.

Section 303 of the enrolled bill would amend section 1009 of title 37, United States Code, relating to the system by which basic pay and allowances for members of the uniformed services are increased. Under the present section 1009, whenever the President increases General Schedule pay rates under the Federal pay comparability system, he must increase military basic pay, quarters allowances, and subsistence allowances by the same percentage as the average General Schedule increase. The amendment in section 303 of the enrolled bill would change this process by allowing the President to allocate the increase in differing percentages to these three elements of military compensation. However, the increase in military basic pay could not be less than 75 percent of the percentage increase in General Schedule pay. If in some year the President should allocate a greater increase to quarters allowances than to the other elements of compensation, he would be authorized to compensate members of the uniformed services who do not receive a quarters allowance for the difference. The amendment would also require the President to advise the Congress as early as possible before a pay increase if he intends to exercise his authority to allocate the increase in differing percentages to the different elements of military compensation.

While we are not closely involved with matters of compensation for the uniformed services, it appears to us that this provision of enrolled bill H.R. 12438 will give the President a useful flexibility in granting the annual military pay increase, and will assist in keeping the allowances for quarters and subsistence more closely related to the actual costs members of the military are likely to incur for these expenses.



Section 801 of the enrolled bill would remove the 1 percent "kicker" from the cost-of-living annuity adjustment formulas of both the Military Retirement System and the CIA Retirement System provided legislation is also enacted to effect the same change in the Civil Service Retirement System. Additionally, section 801 would provide that should any change other than removal of the 1 percent add-on be made in the method of computing the cost-of-living adjustment formula for the Civil Service Retirement System, the President shall make the same change in the Military and CIA retirement systems.

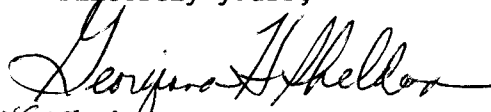
The Civil Service Retirement System is the largest of the Federal retirement systems and the Commission has always considered uniformity among the various systems a desirable feature, whenever possible. Various proposals are being considered which would remove the 1 percent "kicker" from the cost-of-living annuity increase formula for Civil Service annuitants or would otherwise change the present method of computing the increase. Furthermore, enrolled bill S. 3168, currently before the President, would amend the cost-of-living annuity increase formula under Foreign Service Retirement law to conform with any changes which may be enacted to the formula for Civil Service annuitants under 5 U.S.C. 8340(b).

The Commission believes that in this feature at least, all Federal systems should conform; therefore, we have no objection to section 801 of the enrolled bill which would assure conformity in the event of a similar amendment to the Civil Service Retirement law.

Accordingly, the Commission recommends that the President sign enrolled bill H.R. 12438.

By direction of the Commission:

Sincerely yours,


ACTING Chairman





THE SECRETARY OF TRANSPORTATION

WASHINGTON, D.C. 20590

JUL 7 1976

Honorable James T. Lynn
Director
Office of Management and Budget
Washington, D.C. 20503

Dear Mr. Lynn:

Reference is made to your request for the views of the Department of Transportation concerning H.R. 12438, an enrolled bill

"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."

Only sections 303, 304, and 401 of the enrolled bill have a direct impact on the Department of Transportation.

Section 303 of the enrolled bill amends section 1009 of title 37, United States Code, to permit the President to vary the portion of future military pay raises applied to basic allowance for quarters (BAQ). A part of the increase is to be rebated to members who are not entitled to BAQ or who are occupants of bachelor quarters, in recognition of the lower value of those quarters. We have no objection to section 303.

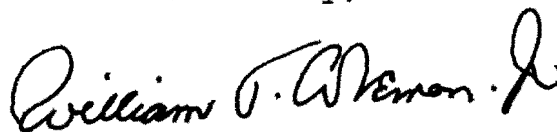
Section 304 of the enrolled bill amends section 501 of title 37, United States Code, to limit the total cumulative entitlement to payment for unused accrued leave for all members of the uniformed services to 60 days during their careers. Under current law, enlisted members may be paid for up to 60 days unused accrued leave at the end of each enlistment. However, officers are normally paid for unused accrued leave up to 60 days only once during their careers, at separation or retirement.

As we have previously stated to you by letter dated August 1, 1975, the impact of this change upon the Coast Guard will be particularly severe. The Coast Guard estimates that up to 600 man years, which equals 2% of its total productive enlisted man years, may be lost when the current system of buying unused accrued leave is changed as proposed by the enrolled bill. The Coast Guard has many small units and stations with manning levels ranging from 5 to 20 members. The loss of productive man days resulting from this change cannot be readily absorbed by these smaller units. In our view any projected savings resulting from reduced payments for unused accrued leave would have to be offset by an increase of up to 600 additional enlisted billets to make up for the loss of man years.

Subsection 401(a) of the enrolled bill authorizes an average strength of not less than 11,700 in the Selected Reserve of the Coast Guard Reserve. This is identical to the figure this Department submitted to the Department of Defense for inclusion in their military authorization bill. Subsection 401(b) relates to the administration of the Selected Reserve, as authorized in subsection (a), and prescribes the manner by which the average strength of the Selected Reserve of any Reserve component is to be reduced or increased during the fiscal year to account for units or individuals thereof serving on active duty (other than for training). We do not object to the requirements of this subsection.

Despite our reservations concerning section 304, because of the limited impact of this legislation on this Department, and its importance to the DOD, this Department has no objection to the President signing the enrolled bill.

Sincerely,



William T. Coleman, Jr.





**GENERAL COUNSEL OF THE
UNITED STATES DEPARTMENT OF COMMERCE**
Washington, D.C. 20230

JUL 7 1976

Honorable James T. Lynn
Director, Office of Management
and Budget
Washington, D. C. 20503

Dear Mr. Lynn:

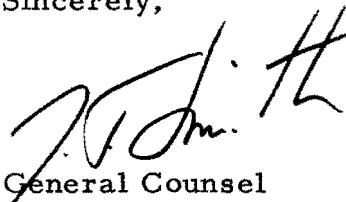
This is in reply to your request for the views of this Department concerning H. R. 12438, an enrolled enactment

"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."

The Department of Commerce would have no objection to approval by the President of this legislation.

Enactment of this legislation would not involve the expenditures of any funds by this Department.

Sincerely,


General Counsel



CENTRAL INTELLIGENCE AGENCY
WASHINGTON, D.C. 20505

7 July 1976

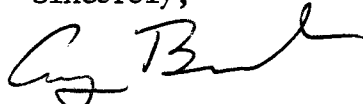
Mr. James M. Frey
Assistant Director for Legislative Reference
Office of Management and Budget
Washington, D. C. 20503

Dear Mr. Frey:

This is in response to your request for this Agency's views and recommendations on Enrolled Bill H.R. 12438, the Department of Defense Appropriation Authorization Act, 1977.

The only item of direct interest to this Agency is Section 801 of the Enrolled Bill which repeals the so-called 1 per centum add-on provision of annuities paid under the Central Intelligence Agency Retirement Act of 1964 for Certain Employees (78 Stat. 1043; 50 U.S.C. 403 note). Section 801 reflects this Agency's understanding that said repeal of the "1 percent kicker" becomes effective only on repeal of such provision under Chapter 83 of Title 5, United States Code, affecting Civil Service annuitants, and is supported by this Agency.

Sincerely,



George Bush
Director



UNITED STATES OF AMERICA
GENERAL SERVICES ADMINISTRATION
WASHINGTON, DC 20405



July 8, 1976

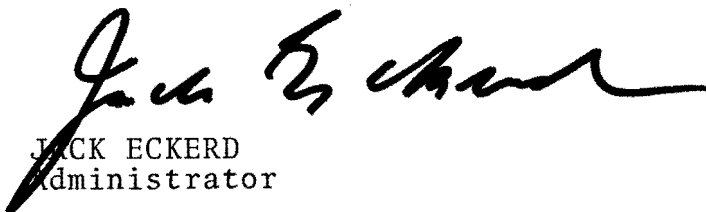
Honorable James T. Lynn
Director, Office of
Management and Budget
Washington, D.C. 20503

Dear Mr. Lynn:

By letter of July 2, 1976, you requested the views of the General Services Administration (GSA) on enrolled bill H.R. 12438, a bill "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."

GSA has no objection to presidential approval of this bill.

Sincerely,



JACK ECKERD
Administrator



THE GENERAL COUNSEL OF HOUSING AND URBAN DEVELOPMENT
WASHINGTON, D.C. 20410

JUL 8 1976

Mr. James M. Frey
Assistant Director for
Legislative Reference
Office of Management and Budget
Washington, D. C. 20503

Attention: Ms. Martha Ramsey

Dear Mr. Frey:

Subject: H. R. 12438, 94th Congress
Enrolled Enactment

This is in reply to your request for the views of this Department on the enrolled enactment of H. R. 12438, the "Department of Defense Appropriation Authorization Act, 1977".

H. R. 12438 would authorize appropriations for fiscal year 1977 for military procurement and research and development activities, and would prescribe the authorized personnel strength for each active duty and Reserve component of the Armed Forces, as well as civilian personnel of the Department of Defense. The enrolled bill would also authorize military training student loads and would make a number of miscellaneous amendments to existing law.

Of special interest to this Department is section 804. This provision would amend the Federal Civil Defense Act of 1950 to authorize the use of funds made available to States under that Act for emergency assistance in any area suffering a disaster, other than one caused by enemy attack. Such assistance would be provided subject to terms prescribed by the Defense Civil Preparedness Agency and would include civil defense personnel, organizational equipment, materials and facilities.



We have two specific reservations with respect to section 804. First, we are concerned that this new authority could overlap, in certain respects, the disaster assistance functions carried out by this Department. We would note, however, that the Conference Report on the enrolled bill (House Rept. No. 94-1305) states at p. 52:

"It is not the purpose of this provision to infringe upon or duplicate the programs and functions of the Federal Disaster Assistance Agency (sic) or any other existing Federal agency."

We would assume that the authority conferred by section 804 will be administered in a manner consistent with this admonition.

A second, and more serious, reservation involves the fact that section 804 would appear to accord the Defense Civil Preparedness Agency (DCPA) authority to provide emergency assistance, even without the request of the State involved or any formal finding by that Agency as to the magnitude of the disaster and necessity of making such assistance available. We would expect that DCPA, in implementing this new authority, would correct this deficiency by regulation.

On the basis of these understandings, we would not object to Presidential approval of section 804. With respect to the relative merits of the remainder of H. R. 12438, we would defer to the Department of Defense.

Sincerely,



Robert R. Elliott



DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

JUL 8 1976

The Honorable James T. Lynn
Director, Office of Management
and Budget
Washington, D. C. 20503

Dear Mr. Lynn:

This is in response to your request for a report on H.R. 12438, an enrolled bill "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."

In summary, we favor the provision extending the authority to enter into agreements to pay variable incentive pay to medical officers in the uniformed services, and offer comments on certain other provisions of concern to this Department, but defer to the Department of Defense as to the merits of the bill as a whole.

Provisions in the bill of concern to us, and our comments on those provisions, are:

1. Section 303 of the bill, which would permit the President to exercise flexibility in allocating cost-of-living increases among basic pay, quarters allowance, and subsistence allowance. We understand that the President would use this authority to increase the portion of cost-of-living increases allocated to quarters allowance and decrease the portion allocated to basic pay. We estimate that, for the Public Health Service Commissioned Corps, retirement pay savings would be offset by revenue loss to the Federal government, because quarters allowance is not taxable. We

favor this provision, because it would permit the quarters allowance to approximate more closely the actual costs of housing for members of the uniformed services.

2. Section 304, which would apply on a lifetime basis the sixty-day limit on lump-sum annual leave payments for persons leaving the uniformed services, rather than, as at present, each time a person left the uniformed services. We estimate that about two thousand dollars a year would be saved annually in lump-sum payments for Commissioned Corps personnel, but that this amount would be offset by the cost involved in tracing back the lifetime record of each person leaving the Corps. We do not object to this provision.

3. Section 305 , which would extend through June 30, 1977, the authority to enter into agreements to pay variable incentive pay to medical officers in the uniformed services. This provision would cost a total of approximately twenty-four million dollars for the Commissioned Corps. It is an interim measure pending receipt and evaluation by Congress and the Executive Branch of reports by the Office of Management and Budget and the General Accounting Office covering recruitment, utilization, retention, and pay of federally employed physicians and dentists. The provision is needed so we can continue to attract physicians to serve in the Commissioned Corps. We strongly favor this provision.

4. Section 602 of the bill, which would establish a Community College of the Air Force and authorize the granting of associate degrees to enlisted members who completed the course of study at the College, provided the Commissioner of Education determined that the standards for the awarding of academic degrees by agencies of the United States had been met. We do not object to this provision.

5. Section 801, which would provide that if, in the future, any change were made in determining the cost-of-living adjustments for annuities of retired civilian Federal employees, the same changes be made in respect to the retired pay of members of the uniformed services. We favor this provision on the basis of equity.

The Honorable James T. Lynn

3

As to the merits of the bill as a whole, we defer to the Department of Defense.

Sincerely,


Under Secretary

Date: July 9

Time: 600pm

FOR ACTION: NSC/S
Max Friedersdorf
Ken Lazarus

cc (for information): Jack Marsh
Jim Cavanaugh
Ed Schmults

FROM THE STAFF SECRETARY

DUE: Date: July 12

Time: noon

SUBJECT:

H.R. 12438-Dept. of Defense Appropriation AUTHORIZATION Act

ACTION REQUESTED:

For Necessary Action

For Your Recommendations

Prepare Agenda and Brief

Draft Reply

For Your Comments

Draft Remarks

REMARKS:

please return to judy johnston, ground floor west wing

No objection -- Ken Lazarus 7/12/76



PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.

If you have any questions or if you anticipate a delay in submitting the required material, please telephone the Staff Secretary immediately.

James M. Cannon
For the President

THE WHITE HOUSE

ACTION MEMORANDUM

WASHINGTON

LOG NO.:

Date: July 9

Time: 600pm

NSC/S
FOR ACTION: Max Friedersdorf
Ken Lazarus

cc (for information): Jack Marsh
Jim Cavanaugh
Ed Schmults

FROM THE STAFF SECRETARY

DUE: Date: July 12

Time: noon

SUBJECT:

H.R. 12438-Dept. of Defense Appropriation Authorization Act

ACTION REQUESTED:

For Necessary Action

For Your Recommendations

Prepare Agenda and Brief

Draft Reply

For Your Comments

Draft Remarks

REMARKS:

please return to judy johnston, ground floor west wing

Recommended Sign

PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.

If you have any questions or if you anticipate a delay in submitting the required material, please telephone the Staff Secretary immediately.


James M. Cannon
For the President

MEMORANDUM

NATIONAL SECURITY COUNCIL

4003

July 12, 1976

MEMORANDUM FOR: JAMES M. CANNON
FROM: Jeanne W. Davis 
SUBJECT: Defense Department Appropriation
Authorization Act: H. R. 12438

The NSC Staff concurs in OMB's Memorandum for the President provided the following change is made:

Page 3, lines 5-6: "... should be resubmitted as a budget supplemental include:" should be revised to read; "... should be considered for possible submission in a budget supplemental include:"

The reason for the change is that the President has not yet determined that there will be a defense budget supplemental.

A summary of congressional changes is presented in greater detail in the attached table. Some of the noteworthy, specific changes are discussed below.

Procurement

Significant reductions in the procurement category which are of high priority and should be ~~resubmitted~~ ^{considered for possible} ~~as~~ a budget supplemental ~~include~~.

Submission

- \$859 million for the DDG-47 conventionally powered destroyer carrying the new AEGIS fleet air defense missile system;
- \$521 million as a result of reducing the number of guided missile frigates from twelve to eight;
- \$170 million for advance procurement for a nuclear strike cruiser; and,
- \$136 million for Air Force F-16 fighter aircraft on the basis that funds are not planned to be used until fiscal year 1978.

Significant additions in the procurement category which are of lower priority and are not needed in 1977 include:

- \$357 million for one nuclear attack submarine;
- \$371 million for overhaul of the U.S.S. Long Beach and installation of initial platform for the AEGIS air defense system; and,
- \$66 million for six Navy A-6E attack aircraft. This production line has been proposed for closure.



EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET

DATE: 7-13-76

TO: Bob Linder

FROM: Jim Frey

Attached is the NSC views ltr on H.R. 12438 for inclusion in the enrolled bill file.

Also attached is the House report on H.R. 1404 and the House report on H.R. 5666 for inclusion in the appropriate enrolled bill files. Thanks.

NATIONAL SECURITY COUNCIL

July 9, 1976

MEMORANDUM FOR: JAMES FREY
FROM: *for* Jeanne W. Davis *WHD*
SUBJECT: HR 12438 re the Procurement of
Aircraft, ~~T~~orpedoes, Missles, and
other Military Weapons

The NSC staff recommends that the President sign HR 12438.



*denial
mission*

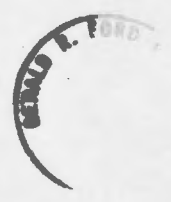
*O.K. - meet.
OK [initials]
(Schmitt)*

Today I have signed into law legislation authorizing Fiscal Year 1977 appropriations of \$32.5 billion for Procurement and for Research and Development programs for the Department of Defense. While this authorization provides for many Defense activities essential for our national security, the bill still has a number of deficiencies.

It is noteworthy that this is the first Defense authorization bill in many years to be passed by the Congress in time to become law before the start of the fiscal year. I commend the Congress for their expeditious action which, by helping us to maintain the continuity of Defense management activities, assists us in our efforts to improve Defense management practices.

My FY 1977 total budget request for national defense is \$115 billion -- as it must be, given the adverse trends which have developed as a result of Congressional cuts in U.S. military expenditures. The Congress must cooperate if we are to be able to successfully arrest these trends in order to assure our own security and, in a real sense, peace and stability in the world.

In important respects, however, Congress has not faced up to the challenge. First, Congress has not approved a number of essential Defense programs. Second, Congress has added funds to the FY 1977 Budget for programs which are not needed in FY 1977. Finally, Congress has not yet acted upon certain of my legislative proposals which are necessary to permit the Defense Department to restrain manpower cost growth, reduce waste and inefficiency and to achieve economies. These three areas require remedial action by the Congress.



POSSIBLE TV STATEMENT ON DEFENSE AUTHORIZATION BILL

It is with mixed emotions that I am signing today a bill authorizing over \$30 billion in new defense spending.

This legislation -- directed to procurement and research and development -- marks the first time in several years that the Congress has acted quickly enough on a major defense bill to determine spending levels before the new year actually begins.

I am encouraged by this development and hope that it signifies a greater awareness on Capitol Hill of the nation's security needs.

At the same time, however, this bill is seriously flawed. It does not spend enough in some areas, it spends too much in others, and it does not address the need to restrain manpower and reduce waste and inefficiency.

Because the Congress has been unwilling to cut the budget where it should be cut and has also failed to spend money on programs we greatly need -- programs for shipbuilding and research and development -- I will be forced to submit supplemental budget requests in the near future.

As a Nation, we owe it to ourselves and to posterity to maintain a defense force that can fully meet our security needs. That remains my first obligation as President.

Defense 14 July 1976

Proposed Signing Statement, FY 1977 Defense Authorization Bill

Today I have signed into law legislation authorizing Fiscal Year 1977 appropriations of \$32.5 billion for Procurement and for Research and Development programs for the Department of Defense. While this Authorization provides for many Defense activities essential for our national security, the Bill still has a number of deficiencies.

It is noteworthy that this is the first defense authorization bill in many years to be passed by the Congress in time to become law before the start of the fiscal year. I commend the Congress for their expeditious action which, by helping us to maintain the continuity of Defense management activities, assists us in our efforts to improve defense management practices.

My FY 1977 total Budget Request for National Defense is \$115 billion -- as it must be, given the adverse trends which have developed as a result of years of relative decline in real military spending on the part of the United States, and many years of real growth on the part of the Soviet Union. The Congress must cooperate if we are to be able to successfully arrest these trends in order to assure our own security and, in a real sense, peace and stability in the world.

In important respects, however, Congress has not faced up to the challenge. First, Congress has not approved a number of essential Defense programs. Second, Congress has added funds to the FY 1977 Budget for programs which are not needed in FY 1977. Finally, Congress has not yet acted upon certain of my legislative proposals which are