

# Union Calendar No. 122

107<sup>TH</sup> CONGRESS  
1<sup>ST</sup> SESSION

# H. R. 2904

[Report No. 107-207]

Making appropriations for military construction, family housing, and base realignment and closure for the Department of Defense for the fiscal year ending September 30, 2002, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 20, 2001

Mr. HOBSON, from the Committee on Appropriations, reported the following bill; which was committed to the Committee of the Whole House on the State of the Union and ordered to be printed

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## A BILL

Making appropriations for military construction, family housing, and base realignment and closure for the Department of Defense for the fiscal year ending September 30, 2002, and for other purposes.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*  
3       That the following sums are appropriated, out of any  
4       money in the Treasury not otherwise appropriated for  
5       military construction, family housing, and base realign-

1 ment and closure functions administered by the Depart-  
2 ment of Defense, for the fiscal year ending September 30,  
3 2002, and for other purposes, namely:

4                   MILITARY CONSTRUCTION, ARMY

5                   (INCLUDING RESCISSION)

6       For acquisition, construction, installation, and equip-  
7 ment of temporary or permanent public works, military  
8 installations, facilities, and real property for the Army as  
9 currently authorized by law, including personnel in the  
10 Army Corps of Engineers and other personal services nec-  
11 essary for the purposes of this appropriation, and for con-  
12 struction and operation of facilities in support of the func-  
13 tions of the Commander in Chief, \$1,739,334,000, to re-  
14 main available until September 30, 2006: *Provided*, That  
15 of this amount, not to exceed \$163,141,000 shall be avail-  
16 able for study, planning, design, architect and engineer  
17 services, and host nation support, as authorized by law,  
18 unless the Secretary of Defense determines that additional  
19 obligations are necessary for such purposes and notifies  
20 the Committees on Appropriations of both Houses of Con-  
21 gress of his determination and the reasons therefor: *Pro-*  
22 *vided further*, That of the funds appropriated for “Military  
23 Construction, Army” under Public Law 106–52,  
24 \$36,400,000 is hereby rescinded.

1                   MILITARY CONSTRUCTION, NAVY  
2                   (INCLUDING RESCISSION)

3           For acquisition, construction, installation, and equip-  
4 ment of temporary or permanent public works, naval in-  
5 stallations, facilities, and real property for the Navy as  
6 currently authorized by law, including personnel in the  
7 Naval Facilities Engineering Command and other per-  
8 sonal services necessary for the purposes of this appropria-  
9 tion, \$1,154,248,000, to remain available until September  
10 30, 2006: *Provided*, That of this amount, not to exceed  
11 \$30,972,000 shall be available for study, planning, design,  
12 architect and engineer services, as authorized by law, un-  
13 less the Secretary of Defense determines that additional  
14 obligations are necessary for such purposes and notifies  
15 the Committees on Appropriations of both Houses of Con-  
16 gress of his determination and the reasons therefor: *Pro-*  
17 *vided further*, That of the funds appropriated for “Military  
18 Construction, Navy” under division A of Public Law 106–  
19 246, \$19,588,000 is hereby rescinded.

20                   MILITARY CONSTRUCTION, AIR FORCE

21           For acquisition, construction, installation, and equip-  
22 ment of temporary or permanent public works, military  
23 installations, facilities, and real property for the Air Force  
24 as currently authorized by law, \$1,185,220,000, to remain  
25 available until September 30, 2006: *Provided*, That of this

1 amount, not to exceed \$83,000,000 shall be available for  
2 study, planning, design, architect and engineer services,  
3 as authorized by law, unless the Secretary of Defense de-  
4 termines that additional obligations are necessary for such  
5 purposes and notifies the Committees on Appropriations  
6 of both Houses of Congress of his determination and the  
7 reasons therefor.

8           MILITARY CONSTRUCTION, DEFENSE-WIDE

9           (INCLUDING TRANSFER AND RESCISSION OF FUNDS)

10          For acquisition, construction, installation, and equip-  
11 ment of temporary or permanent public works, installa-  
12 tions, facilities, and real property for activities and agen-  
13 cies of the Department of Defense (other than the military  
14 departments), as currently authorized by law,  
15 \$863,058,000, to remain available until September 30,  
16 2006: *Provided*, That such amounts of this appropriation  
17 as may be determined by the Secretary of Defense may  
18 be transferred to such appropriations of the Department  
19 of Defense available for military construction or family  
20 housing as he may designate, to be merged with and to  
21 be available for the same purposes, and for the same time  
22 period, as the appropriation or fund to which transferred:  
23 *Provided further*, That of the amount appropriated, not  
24 to exceed \$74,496,000 shall be available for study, plan-  
25 ning, design, architect and engineer services, as authorized

1 by law, unless the Secretary of Defense determines that  
2 additional obligations are necessary for such purposes and  
3 notifies the Committees on Appropriations of both Houses  
4 of Congress of his determination and the reasons therefor:  
5 *Provided further*, That of the funds appropriated for “Mili-  
6 tary Construction, Defense-wide” under division B, title  
7 III, chapter 3 of Public Law 106–246, \$10,250,000 is  
8 hereby rescinded.

9       MILITARY CONSTRUCTION, ARMY NATIONAL GUARD

10       For construction, acquisition, expansion, rehabilita-  
11 tion, and conversion of facilities for the training and ad-  
12 ministration of the Army National Guard, and contribu-  
13 tions therefor, as authorized by chapter 1803 of title 10,  
14 United States Code, and Military Construction Authoriza-  
15 tion Acts, \$313,348,000, to remain available until Sep-  
16 tember 30, 2006.

17       MILITARY CONSTRUCTION, AIR NATIONAL GUARD

18       For construction, acquisition, expansion, rehabilita-  
19 tion, and conversion of facilities for the training and ad-  
20 ministration of the Air National Guard, and contributions  
21 therefor, as authorized by chapter 1803 of title 10, United  
22 States Code, and Military Construction Authorization  
23 Acts, \$198,803,000, to remain available until September  
24 30, 2006.



1 Construction Authorization Acts, \$81,882,000, to remain  
2 available until September 30, 2006.

3 NORTH ATLANTIC TREATY ORGANIZATION

4 SECURITY INVESTMENT PROGRAM

5 For the United States share of the cost of the North  
6 Atlantic Treaty Organization Security Investment Pro-  
7 gram for the acquisition and construction of military fa-  
8 cilities and installations (including international military  
9 headquarters) and for related expenses for the collective  
10 defense of the North Atlantic Treaty Area as authorized  
11 in Military Construction Authorization Acts and section  
12 2806 of title 10, United States Code, \$162,600,000, to  
13 remain available until expended.

14 FAMILY HOUSING CONSTRUCTION, ARMY

15 For expenses of family housing for the Army for con-  
16 struction, including acquisition, replacement, addition, ex-  
17 pansion, extension and alteration, as authorized by law,  
18 \$294,042,000, to remain available until September 30,  
19 2006.

20 FAMILY HOUSING OPERATION AND MAINTENANCE,

21 ARMY

22 For expenses of family housing for the Army for op-  
23 eration and maintenance, including debt payment, leasing,  
24 minor construction, principal and interest charges, and in-  
25 surance premiums, as authorized by law, \$1,096,431,000.

1 FAMILY HOUSING CONSTRUCTION, NAVY AND MARINE  
2 CORPS

3 For expenses of family housing for the Navy and Ma-  
4 rine Corps for construction, including acquisition, replace-  
5 ment, addition, expansion, extension and alteration, as au-  
6 thorized by law, \$334,780,000, to remain available until  
7 September 30, 2006.

8 FAMILY HOUSING OPERATION AND MAINTENANCE,  
9 NAVY AND MARINE CORPS

10 For expenses of family housing for the Navy and Ma-  
11 rine Corps for operation and maintenance, including debt  
12 payment, leasing, minor construction, principal and inter-  
13 est charges, and insurance premiums, as authorized by  
14 law, \$910,095,000.

15 FAMILY HOUSING CONSTRUCTION, AIR FORCE

16 For expenses of family housing for the Air Force for  
17 construction, including acquisition, replacement, addition,  
18 expansion, extension and alteration, as authorized by law,  
19 \$536,237,000, to remain available until September 30,  
20 2006.

21 FAMILY HOUSING OPERATION AND MAINTENANCE, AIR  
22 FORCE

23 For expenses of family housing for the Air Force for  
24 operation and maintenance, including debt payment, leas-  
25 ing, minor construction, principal and interest charges,



1 and insurance premiums, as authorized by law,  
2 \$858,121,000.

3           FAMILY HOUSING, DEFENSE-WIDE

4       For expenses of family housing for the activities and  
5 agencies of the Department of Defense (other than the  
6 military departments) for construction, including acquisi-  
7 tion, replacement, addition, expansion, extension and al-  
8 teration, and for operation and maintenance, leasing, and  
9 minor construction, as authorized by law, as follows: for  
10 construction, \$250,000 to remain available until Sep-  
11 tember 30, 2006; for Operation and Maintenance,  
12 \$43,762,000; in all \$44,012,000.

13           DEPARTMENT OF DEFENSE FAMILY HOUSING

14                   IMPROVEMENT FUND

15       For the Department of Defense Family Housing Im-  
16 provement Fund, \$2,000,000, to remain available until ex-  
17 pended, for family housing initiatives undertaken pursu-  
18 ant to section 2883 of title 10, United States Code, pro-  
19 viding alternative means of acquiring and improving mili-  
20 tary family housing, and supporting facilities.

21           HOMEOWNERS ASSISTANCE FUND, DEFENSE

22       For the Homeowners Assistance Fund established by  
23 Section 1013 of the Demonstration Cities and Metropoli-  
24 tan Development Act of 1966, as amended (42 U.S.C.  
25 3374) \$10,119,000, to remain available until expended.

## 1           BASE REALIGNMENT AND CLOSURE ACCOUNT

2           For deposit into the Department of Defense Base  
3 Closure Account 1990 established by section 2906(a)(1)  
4 of the Department of Defense Authorization Act, 1991  
5 (Public Law 101–510), \$552,713,000, to remain available  
6 until expended: *Provided*, That not more than  
7 \$511,670,000 of the funds appropriated herein shall be  
8 available solely for environmental restoration, unless the  
9 Secretary of Defense determines that additional obliga-  
10 tions are necessary for such purposes and notifies the  
11 Committees on Appropriations of both Houses of Congress  
12 of his determination and the reasons therefor.

## 13                           GENERAL PROVISIONS

14           SEC. 101. None of the funds appropriated in Military  
15 Construction Appropriations Acts shall be expended for  
16 payments under a cost-plus-a-fixed-fee contract for con-  
17 struction, where cost estimates exceed \$25,000, to be per-  
18 formed within the United States, except Alaska, without  
19 the specific approval in writing of the Secretary of Defense  
20 setting forth the reasons therefor.

21           SEC. 102. Funds appropriated to the Department of  
22 Defense for construction shall be available for hire of pas-  
23 senger motor vehicles.

24           SEC. 103. Funds appropriated to the Department of  
25 Defense for construction may be used for advances to the

1 Federal Highway Administration, Department of Trans-  
2 portation, for the construction of access roads as author-  
3 ized by section 210 of title 23, United States Code, when  
4 projects authorized therein are certified as important to  
5 the national defense by the Secretary of Defense.

6       SEC. 104. None of the funds appropriated in this Act  
7 may be used to begin construction of new bases inside the  
8 continental United States for which specific appropria-  
9 tions have not been made.

10       SEC. 105. No part of the funds provided in Military  
11 Construction Appropriations Acts shall be used for pur-  
12 chase of land or land easements in excess of 100 percent  
13 of the value as determined by the Army Corps of Engi-  
14 neers or the Naval Facilities Engineering Command, ex-  
15 cept: (1) where there is a determination of value by a Fed-  
16 eral court; (2) purchases negotiated by the Attorney Gen-  
17 eral or his designee; (3) where the estimated value is less  
18 than \$25,000; or (4) as otherwise determined by the Sec-  
19 retary of Defense to be in the public interest.

20       SEC. 106. None of the funds appropriated in Military  
21 Construction Appropriations Acts shall be used to: (1) ac-  
22 quire land; (2) provide for site preparation; or (3) install  
23 utilities for any family housing, except housing for which  
24 funds have been made available in annual Military Con-  
25 struction Appropriations Acts.

1       SEC. 107. None of the funds appropriated in Military  
2 Construction Appropriations Acts for minor construction  
3 may be used to transfer or relocate any activity from one  
4 base or installation to another, without prior notification  
5 to the Committees on Appropriations.

6       SEC. 108. No part of the funds appropriated in Mili-  
7 tary Construction Appropriations Acts may be used for  
8 the procurement of steel for any construction project or  
9 activity for which American steel producers, fabricators,  
10 and manufacturers have been denied the opportunity to  
11 compete for such steel procurement.

12       SEC. 109. None of the funds available to the Depart-  
13 ment of Defense for military construction or family hous-  
14 ing during the current fiscal year may be used to pay real  
15 property taxes in any foreign nation.

16       SEC. 110. None of the funds appropriated in Military  
17 Construction Appropriations Acts may be used to initiate  
18 a new installation overseas without prior notification to  
19 the Committees on Appropriations.

20       SEC. 111. None of the funds appropriated in Military  
21 Construction Appropriations Acts may be obligated for ar-  
22 chitect and engineer contracts estimated by the Govern-  
23 ment to exceed \$500,000 for projects to be accomplished  
24 in Japan, in any NATO member country, or in countries  
25 bordering the Arabian Gulf, unless such contracts are

1 awarded to United States firms or United States firms  
2 in joint venture with host nation firms.

3       SEC. 112. None of the funds appropriated in Military  
4 Construction Appropriations Acts for military construc-  
5 tion in the United States territories and possessions in the  
6 Pacific and on Kwajalein Atoll, or in countries bordering  
7 the Arabian Gulf, may be used to award any contract esti-  
8 mated by the Government to exceed \$1,000,000 to a for-  
9 eign contractor: *Provided*, That this section shall not be  
10 applicable to contract awards for which the lowest respon-  
11 sive and responsible bid of a United States contractor ex-  
12 ceeds the lowest responsive and responsible bid of a for-  
13 eign contractor by greater than 20 percent: *Provided fur-*  
14 *ther*, That this section shall not apply to contract awards  
15 for military construction on Kwajalein Atoll for which the  
16 lowest responsive and responsible bid is submitted by a  
17 Marshallese contractor.

18       SEC. 113. The Secretary of Defense is to inform the  
19 appropriate committees of Congress, including the Com-  
20 mittees on Appropriations, of the plans and scope of any  
21 proposed military exercise involving United States per-  
22 sonnel 30 days prior to its occurring, if amounts expended  
23 for construction, either temporary or permanent, are an-  
24 ticipated to exceed \$100,000.

1       SEC. 114. Not more than 20 percent of the appro-  
2 priations in Military Construction Appropriations Acts  
3 which are limited for obligation during the current fiscal  
4 year shall be obligated during the last 2 months of the  
5 fiscal year.

6                                   (TRANSFER OF FUNDS)

7       SEC. 115. Funds appropriated to the Department of  
8 Defense for construction in prior years shall be available  
9 for construction authorized for each such military depart-  
10 ment by the authorizations enacted into law during the  
11 current session of Congress.

12       SEC. 116. For military construction or family housing  
13 projects that are being completed with funds otherwise ex-  
14 pired or lapsed for obligation, expired or lapsed funds may  
15 be used to pay the cost of associated supervision, inspec-  
16 tion, overhead, engineering and design on those projects  
17 and on subsequent claims, if any.

18       SEC. 117. Notwithstanding any other provision of  
19 law, any funds appropriated to a military department or  
20 defense agency for the construction of military projects  
21 may be obligated for a military construction project or  
22 contract, or for any portion of such a project or contract,  
23 at any time before the end of the fourth fiscal year after  
24 the fiscal year for which funds for such project were ap-  
25 propriated if the funds obligated for such project: (1) are

1 obligated from funds available for military construction  
2 projects; and (2) do not exceed the amount appropriated  
3 for such project, plus any amount by which the cost of  
4 such project is increased pursuant to law.

5 (TRANSFER OF FUNDS)

6 SEC. 118. During the 5-year period after appropria-  
7 tions available to the Department of Defense for military  
8 construction and family housing operation and mainte-  
9 nance and construction have expired for obligation, upon  
10 a determination that such appropriations will not be nec-  
11 essary for the liquidation of obligations or for making au-  
12 thorized adjustments to such appropriations for obliga-  
13 tions incurred during the period of availability of such ap-  
14 propriations, unobligated balances of such appropriations  
15 may be transferred into the appropriation “Foreign Cur-  
16 rency Fluctuations, Construction, Defense” to be merged  
17 with and to be available for the same time period and for  
18 the same purposes as the appropriation to which trans-  
19 ferred.

20 SEC. 119. The Secretary of Defense is to provide the  
21 Committees on Appropriations of the Senate and the  
22 House of Representatives with an annual report by Feb-  
23 ruary 15, containing details of the specific actions pro-  
24 posed to be taken by the Department of Defense during  
25 the current fiscal year to encourage other member nations

1 of the North Atlantic Treaty Organization, Japan, Korea,  
2 and United States allies bordering the Arabian Gulf to as-  
3 sume a greater share of the common defense burden of  
4 such nations and the United States.

5 (TRANSFER OF FUNDS)

6 SEC. 120. During the current fiscal year, in addition  
7 to any other transfer authority available to the Depart-  
8 ment of Defense, proceeds deposited to the Department  
9 of Defense Base Closure Account established by section  
10 207(a)(1) of the Defense Authorization Amendments and  
11 Base Closure and Realignment Act (Public Law 100–526)  
12 pursuant to section 207(a)(2)(C) of such Act, may be  
13 transferred to the account established by section  
14 2906(a)(1) of the Department of Defense Authorization  
15 Act, 1991, to be merged with, and to be available for the  
16 same purposes and the same time period as that account.

17 SEC. 121. (a) No funds appropriated pursuant to this  
18 Act may be expended by an entity unless the entity agrees  
19 that in expending the assistance the entity will comply  
20 with sections 2 through 4 of the Act of March 3, 1933  
21 (41 U.S.C. 10a–10c, popularly known as the “Buy Amer-  
22 ican Act”).

23 (b) No funds made available under this Act shall be  
24 made available to any person or entity who has been con-



1 victed of violating the Act of March 3, 1933 (41 U.S.C.  
2 10a–10e, popularly known as the “Buy American Act”).

3       SEC. 122. (a) In the case of any equipment or prod-  
4 ucts that may be authorized to be purchased with financial  
5 assistance provided under this Act, it is the sense of the  
6 Congress that entities receiving such assistance should, in  
7 expending the assistance, purchase only American-made  
8 equipment and products.

9       (b) In providing financial assistance under this Act,  
10 the Secretary of the Treasury shall provide to each recipi-  
11 ent of the assistance a notice describing the statement  
12 made in subsection (a) by the Congress.

13                               (TRANSFER OF FUNDS)

14       SEC. 123. Subject to 30 days prior notification to the  
15 Committees on Appropriations, such additional amounts  
16 as may be determined by the Secretary of Defense may  
17 be transferred to the Department of Defense Family  
18 Housing Improvement Fund from amounts appropriated  
19 for construction in “Family Housing” accounts, to be  
20 merged with and to be available for the same purposes  
21 and for the same period of time as amounts appropriated  
22 directly to the Fund: *Provided*, That appropriations made  
23 available to the Fund shall be available to cover the costs,  
24 as defined in section 502(5) of the Congressional Budget  
25 Act of 1974, of direct loans or loan guarantees issued by

1 the Department of Defense pursuant to the provisions of  
2 subchapter IV of chapter 169, title 10, United States  
3 Code, pertaining to alternative means of acquiring and im-  
4 proving military family housing and supporting facilities.

5       SEC. 124. None of the funds appropriated or made  
6 available by this Act may be obligated for Partnership for  
7 Peace Programs in the New Independent States of the  
8 former Soviet Union.

9       SEC. 125. (a) Not later than 60 days before issuing  
10 any solicitation for a contract with the private sector for  
11 military family housing the Secretary of the military de-  
12 partment concerned shall submit to the congressional de-  
13 fense committees the notice described in subsection (b).

14       (b)(1) A notice referred to in subsection (a) is a no-  
15 tice of any guarantee (including the making of mortgage  
16 or rental payments) proposed to be made by the Secretary  
17 to the private party under the contract involved in the  
18 event of—

19           (A) the closure or realignment of the installa-  
20 tion for which housing is provided under the con-  
21 tract;

22           (B) a reduction in force of units stationed at  
23 such installation; or

24           (C) the extended deployment overseas of units  
25 stationed at such installation.

1       (2) Each notice under this subsection shall specify  
2 the nature of the guarantee involved and assess the extent  
3 and likelihood, if any, of the liability of the Federal Gov-  
4 ernment with respect to the guarantee.

5       (c) In this section, the term “congressional defense  
6 committees” means the following:

7           (1) The Committee on Armed Services and the  
8 Military Construction Subcommittee, Committee on  
9 Appropriations of the Senate.

10          (2) The Committee on Armed Services and the  
11 Military Construction Subcommittee, Committee on  
12 Appropriations of the House of Representatives.

13   (TRANSFER OF FUNDS)

14       SEC. 126. During the current fiscal year, in addition  
15 to any other transfer authority available to the Depart-  
16 ment of Defense, amounts may be transferred from the  
17 account established by section 2906(a)(1) of the Depart-  
18 ment of Defense Authorization Act, 1991, to the fund es-  
19 tablished by section 1013(d) of the Demonstration Cities  
20 and Metropolitan Development Act of 1966 (42 U.S.C.  
21 3374) to pay for expenses associated with the Home-  
22 owners Assistance Program. Any amounts transferred  
23 shall be merged with and be available for the same pur-  
24 poses and for the same time period as the fund to which  
25 transferred.

1        SEC. 127. Notwithstanding this or any other provi-  
2 sion of law, funds appropriated in Military Construction  
3 Appropriations Acts for operations and maintenance of  
4 family housing shall be the exclusive source of funds for  
5 repair and maintenance of all family housing units, includ-  
6 ing flag and general officer quarters: *Provided*, That not  
7 more than \$25,000 per unit may be spent annually for  
8 the maintenance and repair of any general or flag officer  
9 quarters without 30 days advance prior notification of the  
10 appropriate committees of Congress: *Provided further*,  
11 That the Under Secretary of Defense (Comptroller) is to  
12 report annually to the Committees on Appropriations all  
13 operations and maintenance expenditures, and all uses of  
14 funds pursuant to 10 U.S.C. 2601, for each individual flag  
15 and general officer quarters for the prior fiscal year: *Pro-*  
16 *vided further*, That nothing herein precludes the Secretary  
17 concerned from using funds pursuant to 10 U.S.C. 2601  
18 or similar authority.

19        SEC. 128. The Army, Navy, Marine Corps, and Air  
20 Force are directed to submit to the appropriate commit-  
21 tees of the Congress by July 1, 2002, a Family Housing  
22 Master Plan demonstrating how they plan to meet the  
23 year 2010 housing goals with traditional construction, op-  
24 eration and maintenance support, as well as privatization  
25 initiative proposals. Each plan shall include projected life

1 cycle costs for family housing construction, basic allow-  
2 ance for housing, operation and maintenance, other associ-  
3 ated costs, and a time line for housing completions each  
4 year.

5 (TRANSFER OF FUNDS)

6 SEC. 129. Of the funds made available in this Act,  
7 \$4,000,000 appropriated under the heading “Military  
8 Construction, Air Force” and \$4,000,000 appropriated  
9 under the heading “Military Construction, Defense-wide”  
10 shall be available to complete a military construction  
11 project for which funds were appropriated in Public Law  
12 107–20 under the heading, “Military Construction, Air  
13 Force”.

14 This Act may be cited as the “Military Construction  
15 Appropriations Act, 2002”.

**Union Calendar No. 122**

107<sup>TH</sup> CONGRESS  
1<sup>ST</sup> SESSION

**H. R. 2904**

**[Report No. 107-207]**

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**A BILL**

Making appropriations for military construction, family housing, and base realignment and closure for the Department of Defense for the fiscal year ending September 30, 2002, and for other purposes.

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SEPTEMBER 20, 2001

Committed to the Committee of the Whole House on the State of the Union and ordered to be printed