

Calendar No. 690

108TH CONGRESS
2D SESSION

H. R. 4837

IN THE SENATE OF THE UNITED STATES

SEPTEMBER 7, 2004

Received; read twice and placed on the calendar

AN ACT

Making appropriations for military construction, family housing, and base realignment and closure for the Department of Defense for the fiscal year ending September 30, 2005, 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,*

1 That the following sums are appropriated, out of
2 any money in the Treasury not otherwise appro-
3 priated for military construction, family housing,
4 and base realignment and closure functions adminis-
5 tered by the Department of Defense, for the fiscal
6 year ending September 30, 2005, and for other pur-
7 poses, namely:

8 MILITARY CONSTRUCTION, ARMY

9 For acquisition, construction, installation, and equip-
10 ment of temporary or permanent public works, military
11 installations, facilities, and real property for the Army as
12 currently authorized by law, including personnel in the
13 Army Corps of Engineers and other personal services nec-
14 essary for the purposes of this appropriation, and for con-
15 struction and operation of facilities in support of the func-
16 tions of the Commander in Chief, \$1,862,854,000, to re-
17 main available until September 30, 2009: *Provided*, That
18 of this amount, not to exceed \$140,554,000 shall be avail-
19 able for study, planning, design, architect and engineer
20 services, and host nation support, as authorized by law,
21 unless the Secretary of Defense determines that additional
22 obligations are necessary for such purposes and notifies
23 the Committees on Appropriations of the House of Rep-
24 resentatives and Senate of the determination and the rea-
25 sons therefor.

1 MILITARY CONSTRUCTION, NAVY AND MARINE CORPS

2 For acquisition, construction, installation, and equip-
3 ment of temporary or permanent public works, naval in-
4 stallations, facilities, and real property for the Navy and
5 Marine Corps as currently authorized by law, including
6 personnel in the Naval Facilities Engineering Command
7 and other personal services necessary for the purposes of
8 this appropriation, \$1,081,042,000, to remain available
9 until September 30, 2009: *Provided*, That of this amount,
10 not to exceed \$93,284,000 shall be available for study,
11 planning, design, and architect and engineer services, as
12 authorized by law, unless the Secretary of Defense deter-
13 mines that additional obligations are necessary for such
14 purposes and notifies the Committees on Appropriations
15 of the House of Representatives and Senate of the deter-
16 mination and the reasons therefor.

17 MILITARY CONSTRUCTION, AIR FORCE

18 For acquisition, construction, installation, and equip-
19 ment of temporary or permanent public works, military
20 installations, facilities, and real property for the Air Force
21 as currently authorized by law, \$797,865,000, to remain
22 available until September 30, 2009: *Provided*, That of this
23 amount, not to exceed \$165,367,000 shall be available for
24 study, planning, design, and architect and engineer serv-
25 ices, as authorized by law, unless the Secretary of Defense

1 determines that additional obligations are necessary for
2 such purposes and notifies the Committees on Appropria-
3 tions of the House of Representatives and Senate of the
4 determination and the reasons therefor.

5 MILITARY CONSTRUCTION, DEFENSE-WIDE

6 (INCLUDING TRANSFER OF FUNDS)

7 For acquisition, construction, installation, and equip-
8 ment of temporary or permanent public works, installa-
9 tions, facilities, and real property for activities and agen-
10 cies of the Department of Defense (other than the military
11 departments), as currently authorized by law,
12 \$718,837,000, to remain available until September 30,
13 2009: *Provided*, That such amounts of this appropriation
14 as may be determined by the Secretary of Defense may
15 be transferred to such appropriations of the Department
16 of Defense available for military construction or family
17 housing as the Secretary may designate, to be merged with
18 and to be available for the same purposes, and for the
19 same time period, as the appropriation or fund to which
20 transferred: *Provided further*, That of the amount appro-
21 priated, not to exceed \$63,482,000 shall be available for
22 study, planning, design, and architect and engineer serv-
23 ices, as authorized by law, unless the Secretary of Defense
24 determines that additional obligations are necessary for
25 such purposes and notifies the Committees on Appropria-

1 tions of the House of Representatives and Senate of the
2 determination and the reasons therefor.

3 MILITARY CONSTRUCTION, ARMY NATIONAL GUARD

4 For construction, acquisition, expansion, rehabilita-
5 tion, and conversion of facilities for the training and ad-
6 ministration of the Army National Guard, and contribu-
7 tions therefor, as authorized by chapter 1803 of title 10,
8 United States Code, and Military Construction Authoriza-
9 tion Acts, \$394,100,000, to remain available until Sep-
10 tember 30, 2009: *Provided*, That of this amount, not to
11 exceed \$74,982,000 shall be available for study, planning,
12 design, and architect and engineer services, as authorized
13 by law, unless the Secretary of Defense determines that
14 additional obligations are necessary for such purposes and
15 notifies the Committees on Appropriations of the House
16 of Representatives and Senate of the determination and
17 the reasons therefor.

18 MILITARY CONSTRUCTION, AIR NATIONAL GUARD

19 For construction, acquisition, expansion, rehabilita-
20 tion, and conversion of facilities for the training and ad-
21 ministration of the Air National Guard, and contributions
22 therefor, as authorized by chapter 1803 of title 10, United
23 States Code, and Military Construction Authorization
24 Acts, \$180,533,000, to remain available until September
25 30, 2009: *Provided*, That of this amount, not to exceed

1 \$20,433,000 shall be available for study, planning, design,
2 and architect and engineer services, as authorized by law,
3 unless the Secretary of Defense determines that additional
4 obligations are necessary for such purposes and notifies
5 the Committees on Appropriations of the House of Rep-
6 resentatives and Senate of the determination and the rea-
7 sons therefor.

8 MILITARY CONSTRUCTION, ARMY RESERVE

9 For construction, acquisition, expansion, rehabilita-
10 tion, and conversion of facilities for the training and ad-
11 ministration of the Army Reserve as authorized by chapter
12 1803 of title 10, United States Code, and Military Con-
13 struction Authorization Acts, \$116,521,000, to remain
14 available until September 30, 2009: *Provided*, That of this
15 amount, not to exceed \$13,413,000 shall be available for
16 study, planning, design, and architect and engineer serv-
17 ices, as authorized by law, unless the Secretary of Defense
18 determines that additional obligations are necessary for
19 such purposes and notifies the Committees on Appropria-
20 tions of the House of Representatives and Senate of the
21 determination and the reasons therefor.

22 MILITARY CONSTRUCTION, NAVAL RESERVE

23 For construction, acquisition, expansion, rehabilita-
24 tion, and conversion of facilities for the training and ad-
25 ministration of the reserve components of the Navy and

1 Marine Corps as authorized by chapter 1803 of title 10,
2 United States Code, and Military Construction Authoriza-
3 tion Acts, \$30,955,000, to remain available until Sep-
4 tember 30, 2009: *Provided*, That of this amount, not to
5 exceed \$1,653,000 shall be available for study, planning,
6 design, and architect and engineer services, as authorized
7 by law, unless the Secretary of Defense determines that
8 additional obligations are necessary for such purposes and
9 notifies the Committees on Appropriations of the House
10 of Representatives and Senate of the determination and
11 the reasons therefor.

12 MILITARY CONSTRUCTION, AIR FORCE RESERVE

13 For construction, acquisition, expansion, rehabilita-
14 tion, and conversion of facilities for the training and ad-
15 ministration of the Air Force Reserve as authorized by
16 chapter 1803 of title 10, United States Code, and Military
17 Construction Authorization Acts, \$111,725,000, to remain
18 available until September 30, 2009: *Provided*, That of this
19 amount, not to exceed \$8,612,000 shall be available for
20 study, planning, design, and architect and engineer serv-
21 ices, as authorized by law, unless the Secretary of Defense
22 determines that additional obligations are necessary for
23 such purposes and notifies the Committees on Appropria-
24 tions of the House of Representatives and Senate of the
25 determination and the reasons therefor.

1 NORTH ATLANTIC TREATY ORGANIZATION
2 SECURITY INVESTMENT PROGRAM

3 For the United States share of the cost of the North
4 Atlantic Treaty Organization Security Investment Pro-
5 gram for the acquisition and construction of military fa-
6 cilities and installations (including international military
7 headquarters) and for related expenses for the collective
8 defense of the North Atlantic Treaty Area as authorized
9 by section 2806 of title 10, United States Code, and Mili-
10 tary Construction Authorization Acts, \$165,800,000, to
11 remain available until expended.

12 FAMILY HOUSING CONSTRUCTION, ARMY

13 For expenses of family housing for the Army for con-
14 struction, including acquisition, replacement, addition, ex-
15 pansion, extension, and alteration, as authorized by law,
16 \$636,099,000, to remain available until September 30,
17 2009.

18 FAMILY HOUSING OPERATION AND MAINTENANCE,

19 ARMY

20 For expenses of family housing for the Army for op-
21 eration and maintenance, including debt payment, leasing,
22 minor construction, principal and interest charges, and in-
23 surance premiums, as authorized by law, \$926,507,000.

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
6 authorized by law, \$139,107,000, to remain available until
7 September 30, 2009.

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, \$696,304,000.

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 \$846,959,000, to remain available until September 30,
20 2009.

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 \$854,666,000.

3 FAMILY HOUSING CONSTRUCTION, 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, as authorized by law, \$49,000, to remain avail-
9 able until September 30, 2009.

10 FAMILY HOUSING OPERATION AND MAINTENANCE,
11 DEFENSE-WIDE

12 For expenses of family housing for the activities and
13 agencies of the Department of Defense (other than the
14 military departments) for operation and maintenance,
15 leasing, and minor construction, as authorized by law,
16 \$49,575,000.

17 DEPARTMENT OF DEFENSE FAMILY HOUSING
18 IMPROVEMENT FUND

19 For the Department of Defense Family Housing Im-
20 provement Fund, \$2,500,000, to remain available until ex-
21 pended, for family housing initiatives undertaken pursu-
22 ant to section 2883 of title 10, United States Code, pro-
23 viding alternative means of acquiring and improving mili-
24 tary family housing and supporting facilities.

1 CHEMICAL DEMILITARIZATION CONSTRUCTION,
2 DEFENSE-WIDE
3 (INCLUDING TRANSFER OF FUNDS)

4 For expenses of construction, not otherwise provided
5 for, necessary for the destruction of the United States
6 stockpile of lethal chemical agents and munitions in ac-
7 cordance with the provisions of section 1412 of the De-
8 partment of Defense Authorization Act, 1986 (50 U.S.C.
9 1521), and for the destruction of other chemical warfare
10 materials that are not in the chemical weapon stockpile,
11 as currently authorized by law, \$81,886,000, to remain
12 available until September 30, 2009: *Provided*, That such
13 amounts of this appropriation as may be determined by
14 the Secretary of Defense may be transferred to such ap-
15 propriations of the Department of Defense available for
16 military construction as the Secretary may designate, to
17 be merged with and to be available for the same purposes,
18 and for the same time period, as the appropriation to
19 which transferred.

20 BASE REALIGNMENT AND CLOSURE ACCOUNT

21 For deposit into the Department of Defense Base
22 Closure Account 1990 established by section 2906(a)(1)
23 of the Defense Base Closure and Realignment Act of 1990
24 (10 U.S.C. 2687 note), \$246,116,000, to remain available
25 until expended.

1 GENERAL PROVISIONS

2 SEC. 101. None of the funds made available in this
3 Act shall be expended for payments under a cost-plus-a-
4 fixed-fee contract for construction, where cost estimates
5 exceed \$25,000, to be performed within the United States,
6 except Alaska, without the specific approval in writing of
7 the Secretary of Defense setting forth the reasons there-
8 for.

9 SEC. 102. Funds appropriated to the Department of
10 Defense for construction shall be available for hire of pas-
11 senger motor vehicles.

12 SEC. 103. Funds appropriated to the Department of
13 Defense for construction may be used for advances to the
14 Federal Highway Administration, Department of Trans-
15 portation, for the construction of access roads as author-
16 ized by section 210 of title 23, United States Code, when
17 projects authorized therein are certified as important to
18 the national defense by the Secretary of Defense.

19 SEC. 104. None of the funds made available in this
20 Act may be used to begin construction of new bases in
21 the United States for which specific appropriations have
22 not been made.

23 SEC. 105. None of the funds made available in this
24 Act shall be used for purchase of land or land easements
25 in excess of 100 percent of the value as determined by

1 the Army Corps of Engineers or the Naval Facilities Engi-
2 neering Command, except: (1) where there is a determina-
3 tion of value by a Federal court; (2) purchases negotiated
4 by the Attorney General or his designee; (3) where the
5 estimated value is less than \$25,000; or (4) as otherwise
6 determined by the Secretary of Defense to be in the public
7 interest.

8 SEC. 106. None of the funds made available in this
9 Act shall be used to: (1) acquire land; (2) provide for site
10 preparation; or (3) install utilities for any family housing,
11 except housing for which funds have been made available
12 in annual Military Construction Appropriations Acts.

13 SEC. 107. None of the funds made available in this
14 Act for minor construction may be used to transfer or relo-
15 cate any activity from one base or installation to another,
16 without prior notification to the Committees on Appro-
17 priations of the House of Representatives and Senate.

18 SEC. 108. None of the funds made available in this
19 Act may be used for the procurement of steel for any con-
20 struction project or activity for which American steel pro-
21 ducers, fabricators, and manufacturers have been denied
22 the opportunity to compete for such steel procurement.

23 SEC. 109. None of the funds available to the Depart-
24 ment of Defense for military construction or family hous-

1 ing during the current fiscal year may be used to pay real
2 property taxes in any foreign nation.

3 SEC. 110. None of the funds made available in this
4 Act may be used to initiate a new installation overseas
5 without prior notification to the Committees on Appro-
6 priations of the House of Representatives and Senate.

7 SEC. 111. None of the funds made available in this
8 Act may be obligated for architect and engineer contracts
9 estimated by the Government to exceed \$500,000 for
10 projects to be accomplished in Japan, in any NATO mem-
11 ber country, or in countries bordering the Arabian Sea,
12 unless such contracts are awarded to United States firms
13 or United States firms in joint venture with host nation
14 firms.

15 SEC. 112. None of the funds made available in this
16 Act for military construction in the United States terri-
17 tories and possessions in the Pacific and on Kwajalein
18 Atoll, or in countries bordering the Arabian Sea, may be
19 used to award any contract estimated by the Government
20 to exceed \$1,000,000 to a foreign contractor: *Provided*,
21 That this section shall not be applicable to contract
22 awards for which the lowest responsive and responsible bid
23 of a United States contractor exceeds the lowest respon-
24 sive and responsible bid of a foreign contractor by greater
25 than 20 percent: *Provided further*, That this section shall

SEC. 114. Not more than 20 percent of the funds made available in this Act which are limited for obligation during the current fiscal year shall be obligated during the last 2 months of the fiscal year.

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

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tion, overhead, engineering and design on those projects
and on subsequent claims, if any.

SEC. 117. Notwithstanding any other provision of
law, any funds appropriated to a military department or
defense agency for the construction of military projects
may be obligated for a military construction project or
contract, or for any portion of such a project or contract,
at any time before the end of the fourth fiscal year after
the fiscal year for which funds for such project were ap-
propriated if the funds obligated for such project: (1) are
obligated from funds available for military construction
projects; and (2) do not exceed the amount appropriated
for such project, plus any amount by which the cost of
such project is increased pursuant to law.

(TRANSFER OF FUNDS)

SEC. 118. During the 5-year period after appropria-
tions available to the Department of Defense for military
construction and family housing operation and mainte-
nance and construction have expired for obligation, upon
a determination that such appropriations will not be nec-
essary for the liquidation of obligations or for making au-
thorized adjustments to such appropriations for obliga-
tions incurred during the period of availability of such ap-
propriations, unobligated balances of such appropriations
may be transferred into the appropriation "Foreign Cur-
rency Fluctuations, Construction, Defense" to be merged

1 with and to be available for the same time period and for
2 the same purposes as the appropriation to which trans-
3 ferred.

4 SEC. 119. The Secretary of Defense is to provide the
5 Committees on Appropriations of the House of Represent-
6 atives and Senate with an annual report by February 15,
7 containing details of the specific actions proposed to be
8 taken by the Department of Defense during the current
9 fiscal year to encourage other member nations of the
10 North Atlantic Treaty Organization, Japan, Korea, and
11 United States allies bordering the Arabian Sea to assume
12 a greater share of the common defense burden of such
13 nations and the United States.

14 (TRANSFER OF FUNDS)

15 SEC. 120. In addition to any other transfer authority
16 available to the Department of Defense, proceeds depos-
17 ited to the Department of Defense Base Closure Account
18 established by section 207(a)(1) of the Defense Authoriza-
19 tion Amendments and Base Closure and Realignment Act
20 (Public Law 100–526) pursuant to section 207(a)(2)(C)
21 of such Act, may be transferred to the account established
22 by section 2906(a)(1) of the Defense Base Closure and
23 Realignment Act of 1990 (10 U.S.C. 2687 note), to be
24 merged with, and to be available for the same purposes
25 and the same time period as that account.

(TRANSFER OF FUNDS)

1
2 SEC. 121. Subject to 30 days prior notification to the
3 Committees on Appropriations of the House of Represent-
4 atives and Senate, such additional amounts as may be de-
5 termined by the Secretary of Defense may be transferred
6 to the Department of Defense Family Housing Improve-
7 ment Fund from amounts appropriated for construction
8 in “Family Housing” accounts, to be merged with and to
9 be available for the same purposes and for the same period
10 of time as amounts appropriated directly to the Fund:
11 *Provided*, That appropriations made available to the Fund
12 shall be available to cover the costs, as defined in section
13 502(5) of the Congressional Budget Act of 1974, of direct
14 loans or loan guarantees issued by the Department of De-
15 fense pursuant to the provisions of subchapter IV of chap-
16 ter 169, title 10, United States Code, pertaining to alter-
17 native means of acquiring and improving military family
18 housing and supporting facilities.

19 SEC. 122. None of the funds made available in this
20 Act may be obligated for Partnership for Peace Programs
21 in the New Independent States of the former Soviet
22 Union.

23 SEC. 123. (a) Not later than 60 days before issuing
24 any solicitation for a contract with the private sector for
25 military family housing the Secretary of the military de-

1 partment concerned shall submit to the Committees on
2 Appropriations of the House of Representatives and Sen-
3 ate and the Committees on Armed Services of the House
4 of Representatives and Senate the notice described in sub-
5 section (b).

6 (b)(1) A notice referred to in subsection (a) is a no-
7 tice of any guarantee (including the making of mortgage
8 or rental payments) proposed to be made by the Secretary
9 to the private party under the contract involved in the
10 event of—

11 (A) the closure or realignment of the installa-
12 tion for which housing is provided under the con-
13 tract;

14 (B) a reduction in force of units stationed at
15 such installation; or

16 (C) the extended deployment overseas of units
17 stationed at such installation.

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

22 (TRANSFER OF FUNDS)

23 SEC. 124. In addition to any other transfer authority
24 available to the Department of Defense, amounts may be
25 transferred from the account established by section
26 2906(a)(1) of the Defense Base Closure and Realignment

1 Act of 1990 (10 U.S.C. 2687 note), to the fund estab-
2 lished by section 1013(d) of the Demonstration Cities and
3 Metropolitan Development Act of 1966 (42 U.S.C. 3374)
4 to pay for expenses associated with the Homeowners As-
5 sistance Program. Any amounts transferred shall be
6 merged with and be available for the same purposes and
7 for the same time period as the fund to which transferred.

8 SEC. 125. Notwithstanding this or any other provi-
9 sion of law, funds made available in this Act for operation
10 and maintenance of family housing shall be the exclusive
11 source of funds for repair and maintenance of all family
12 housing units, including general or flag officer quarters:
13 *Provided*, That not more than \$20,000 per unit may be
14 spent annually for the maintenance and repair of any gen-
15 eral or flag officer quarters without 30 days advance noti-
16 fication to the Committees on Appropriations of the House
17 of Representatives and Senate and Committees on Armed
18 Services of the House of Representatives and Senate, ex-
19 cept that an after-the-fact notification shall be submitted
20 if the limitation is exceeded solely due to costs associated
21 with environmental remediation that could not be reason-
22 ably anticipated at the time of the budget submission: *Pro-*
23 *vided further*, That the Under Secretary of Defense
24 (Comptroller) is to report annually to the Committees on
25 Appropriations of the House of Representatives and Sen-

1 ate all operations and maintenance expenditures for each
2 individual general or flag officer quarters for the prior fis-
3 cal year.

4 SEC. 126. None of the funds made available in this
5 Act may be transferred to any department, agency, or in-
6 strumentality of the United States Government, except
7 pursuant to a transfer made by, or transfer authority pro-
8 vided in, this Act or any other appropriation Act.

9 SEC. 127. None of the funds made available in this
10 Act under the heading “North Atlantic Treaty Organiza-
11 tion Security Investment Program”, and no funds appro-
12 priated for any fiscal year before fiscal year 2005 for that
13 program that remain available for obligation, may be obli-
14 gated or expended for the conduct of studies of missile
15 defense.

16 SEC. 128. Whenever the Secretary of Defense or any
17 other official of the Department of Defense is requested
18 by the chairman of the Subcommittee on Military Con-
19 struction of the Committee on Appropriations of the
20 House of Representatives to respond to a question or in-
21 quiry submitted by the chairman or another member of
22 that subcommittee pursuant to a subcommittee hearing or
23 other activity, the Secretary (or other official) shall re-
24 spond to the request, in writing, within 21 days of the

1 date on which the request is transmitted to the Secretary
2 (or other official).

3 SEC. 129. The fitness center at Homestead Air Re-
4 serve Base, Florida, shall be known and designated as the
5 “Sam Johnson Fitness Center”. Any reference to such fa-
6 cility in any law, regulation, map, document, record, or
7 other paper of the United States shall be considered to
8 be a reference to the Sam Johnson Fitness Center.

9 This Act may be cited as the “Military Construction
10 Appropriations Act, 2005”.

Passed the House of Representatives July 22, 2004.

Attest:

JEFF TRANDAHL,

Clerk.

Calendar No. 690

108TH CONGRESS
2^D Session

H. R. 4837

AN ACT

Making appropriations for military construction, family housing, and base realignment and closure for the Department of Defense for the fiscal year ending September 30, 2005, and for other purposes.

SEPTEMBER 7, 2004

Received; read twice and placed on the calendar