

Public Law 102-136
102d Congress

An Act

Making appropriations for military construction for the Department of Defense for the fiscal year ending September 30, 1992, and for other purposes.

Oct. 25, 1991
[H.R. 2426]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the fiscal year ending September 30, 1992, for military construction functions administered by the Department of Defense, and for other purposes, namely:

Military
Construction
Appropriations
Act, 1992.

MILITARY CONSTRUCTION, ARMY

(INCLUDING RESCISSION)

For acquisition, construction, installation, and equipment of temporary or permanent public works, military installations, facilities, and real property for the Army as currently authorized by law, including personnel in the Army Corps of Engineers and other personal services necessary for the purposes of this appropriation, and for construction and operation of facilities in support of the functions of the Commander in Chief, \$880,820,000, to remain available until September 30, 1996: *Provided*, That of this amount, not to exceed \$113,000,000 shall be available for study, planning, design, architect and engineer services, as authorized by law, unless the Secretary of Defense determines that additional obligations are necessary for such purposes and notifies the Committees on Appropriations of both Houses of Congress of his determination and the reasons therefor: *Provided further*, That of the funds appropriated for "Military Construction, Army" under Public Law 101-148, \$39,000,000 is hereby rescinded.

MILITARY CONSTRUCTION, NAVY

(INCLUDING RESCISSIONS)

For acquisition, construction, installation, and equipment of temporary or permanent public works, naval installations, facilities, and real property for the Navy as currently authorized by law, including personnel in the Naval Facilities Engineering Command and other personal services necessary for the purposes of this appropriation, \$883,859,000, to remain available until September 30, 1996: *Provided*, That of this amount, not to exceed \$76,000,000 shall be available for study, planning, design, architect and engineer services, as authorized by law, unless the Secretary of Defense determines that additional obligations are necessary for such purposes and notifies the Committees on Appropriations of both Houses of Congress of his determination and the reasons therefor: *Provided further*, That of the funds appropriated for "Military Construction, Navy" under Public Law 100-447, \$10,972,000 is hereby rescinded:

Provided further, That of the funds appropriated for "Military Construction, Navy" under Public Law 101-519, \$45,420,000 is hereby rescinded.

MILITARY CONSTRUCTION, AIR FORCE

(INCLUDING RESCISSIONS)

For acquisition, construction, installation, and equipment of temporary or permanent public works, military installations, facilities, and real property for the Air Force as currently authorized by law, \$1,005,954,000, to remain available until September 30, 1996: *Provided*, That of this amount, not to exceed \$69,900,000 shall be available for study, planning, design, architect and engineer services, as authorized by law, unless the Secretary of Defense determines that additional obligations are necessary for such purposes and notifies the Committees on Appropriations of both Houses of Congress of his determination and the reasons therefor: *Provided further*, That of the funds appropriated for "Military Construction, Air Force" under Public Law 100-447, \$16,900,000 is hereby rescinded: *Provided further*, That of the funds appropriated for "Military Construction, Air Force" under Public Law 101-148, \$63,900,000 is hereby rescinded: *Provided further*, That of the funds appropriated for "Military Construction, Air Force" under Public Law 101-519, \$13,600,000 is hereby rescinded.

MILITARY CONSTRUCTION, DEFENSE AGENCIES

(INCLUDING TRANSFER OF FUNDS)

For acquisition, construction, installation, and equipment of temporary or permanent public works, installations, facilities, and real property for activities and agencies of the Department of Defense (other than the military departments), as currently authorized by law, \$724,740,000, to remain available until September 30, 1996: *Provided*, That such amounts of this appropriation as may be determined by the Secretary of Defense may be transferred to such appropriations of the Department of Defense available for military construction as he may designate, to be merged with and to be available for the same purposes, and for the same time period, as the appropriation or fund to which transferred: *Provided further*, That of the amount appropriated, not to exceed \$74,600,000 shall be available for study, planning, design, architect and engineer services, as authorized by law, unless the Secretary of Defense determines that additional obligations are necessary for such purposes and notifies the Committees on Appropriations of both Houses of Congress of his determination and the reasons therefor.

NORTH ATLANTIC TREATY ORGANIZATION INFRASTRUCTURE

For the United States share of the cost of North Atlantic Treaty Organization Infrastructure programs for the acquisition and construction of military facilities and installations (including international military headquarters) and for related expenses for the collective defense of the North Atlantic Treaty Area as authorized in military construction Acts and section 2806 of title 10, United States Code, \$225,000,000 to remain available until expended: *Provided*, That none of the funds appropriated or otherwise available

under the North Atlantic Treaty Organization Infrastructure Account in this or any other Act may be obligated for planning, design, or construction of military facilities or family housing to support the relocation of the 401st Tactical Fighter Wing to Crotone, Italy.

MILITARY CONSTRUCTION, ARMY NATIONAL GUARD

For construction, acquisition, expansion, rehabilitation, and conversion of facilities for the training and administration of the Army National Guard, and contributions therefor, as authorized by chapter 133 of title 10, United States Code, and military construction authorization Acts, \$231,117,000, to remain available until September 30, 1996.

MILITARY CONSTRUCTION, AIR NATIONAL GUARD

For construction, acquisition, expansion, rehabilitation, and conversion of facilities for the training and administration of the Air National Guard, and contributions therefor, as authorized by chapter 133 of title 10, United States Code, and military construction authorization Acts, \$217,566,000, to remain available until September 30, 1996.

MILITARY CONSTRUCTION, ARMY RESERVE

For construction, acquisition, expansion, rehabilitation, and conversion of facilities for the training and administration of the Army Reserve as authorized by chapter 133 of title 10, United States Code, and military construction authorization Acts, \$110,389,000, to remain available until September 30, 1996.

MILITARY CONSTRUCTION, NAVAL RESERVE

For construction, acquisition, expansion, rehabilitation, and conversion of facilities for the training and administration of the reserve components of the Navy and Marine Corps as authorized by chapter 133 of title 10, United States Code, and military construction authorization Acts, \$59,900,000, to remain available until September 30, 1996.

MILITARY CONSTRUCTION, AIR FORCE RESERVE

For construction, acquisition, expansion, rehabilitation, and conversion of facilities for the training and administration of the Air Force Reserve as authorized by chapter 133 of title 10, United States Code, and military construction authorization Acts, \$9,700,000, to remain available until September 30, 1996.

FAMILY HOUSING, ARMY

For expenses of family housing for the Army for construction, including acquisition, replacement, addition, expansion, extension and alteration and for operation and maintenance, including debt payment, leasing, minor construction, principal and interest charges, and insurance premiums, as authorized by law, as follows: for Construction, \$167,220,000; for Operation and maintenance, and for debt payment, \$1,390,025,000; in all \$1,557,245,000: *Provided*,

That the amount provided for construction shall remain available until September 30, 1996.

FAMILY HOUSING, NAVY AND MARINE CORPS

For expenses of family housing for the Navy and Marine Corps for construction, including acquisition, replacement, addition, expansion, extension and alteration and for operation and maintenance, including debt payment, leasing, minor construction, principal and interest charges, and insurance premiums, as authorized by law, as follows: for Construction, \$198,440,000; for Operation and maintenance, and for debt payment, \$703,700,000; in all \$902,140,000: *Provided*, That the amount provided for construction shall remain available until September 30, 1996.

FAMILY HOUSING, AIR FORCE

For expenses of family housing for the Air Force for construction, including acquisition, replacement, addition, expansion, extension and alteration and for operation and maintenance, including debt payment, leasing, minor construction, principal and interest charges, and insurance premiums, as authorized by law, as follows: for Construction, \$172,083,000; for Operation and maintenance, and for debt payment, \$903,200,000; in all \$1,075,283,000: *Provided*, That the amount provided for construction shall remain available until September 30, 1996.

FAMILY HOUSING, DEFENSE AGENCIES

For expenses of family housing for the activities and agencies of the Department of Defense (other than the military departments) for construction, including acquisition, replacement, addition, expansion, extension and alteration and for operation and maintenance, leasing, and minor construction, as authorized by law, as follows: for Construction, \$200,000; for Operation and maintenance, \$26,000,000; in all \$26,200,000: *Provided*, That the amount provided for construction shall remain available until September 30, 1996.

HOMEOWNERS ASSISTANCE FUND, DEFENSE

For use in the Homeowners Assistance Fund established pursuant to section 1013(d) of the Demonstration Cities and Metropolitan Development Act of 1966 (Public Law 89-754, as amended), \$84,000,000, to remain available until expended.

BASE REALIGNMENT AND CLOSURE ACCOUNT, PART I

For deposit into the Department of Defense Base Closure Account established by section 207(a)(1) of the Defense Authorization Amendments and Base Closure and Realignment Act (Public Law 100-526), \$658,600,000, to remain available for obligation until September 30, 1995: *Provided*, That none of these funds may be obligated for base realignment and closure activities under Public Law 100-526 which would cause the Department's \$1,800,000,000 cost estimate for military construction and family housing related to the Base Realignment and Closure Program to be exceeded: *Provided further*, That not less than \$220,000,000 of the funds appropriated herein shall be available solely for environmental restoration.

BASE REALIGNMENT AND CLOSURE ACCOUNT, PART II

For deposit into the Department of Defense Base Closure Account 1990 established by section 2906(a)(1) of the Department of Defense Authorization Act, 1991 (Public Law 101-510), \$100,000,000, to remain available until expended: *Provided*, That of the funds appropriated herein such sums as may be required shall be available for environmental restoration.

GENERAL PROVISIONS

SEC. 101. None of the funds appropriated in this Act shall be expended for payments under a cost-plus-a-fixed-fee contract for work, where cost estimates exceed \$25,000, to be performed within the United States, except Alaska, without the specific approval in writing of the Secretary of Defense setting forth the reasons therefor.

SEC. 102. Funds herein appropriated to the Department of Defense for construction shall be available for hire of passenger motor vehicles.

SEC. 103. Funds appropriated to the Department of Defense for construction may be used for advances to the Federal Highway Administration, Department of Transportation, for the construction of access roads as authorized by section 210 of title 23, United States Code, when projects authorized therein are certified as important to the national defense by the Secretary of Defense.

SEC. 104. None of the funds appropriated in this Act may be used to begin construction of new bases inside the continental United States for which specific appropriations have not been made.

SEC. 105. No part of the funds provided in this Act shall be used for purchase of land or land easements in excess of 100 per centum of the value as determined by the Corps of Engineers or the Naval Facilities Engineering Command, except (a) where there is a determination of value by a Federal court, or (b) purchases negotiated by the Attorney General or his designee, or (c) where the estimated value is less than \$25,000, or (d) as otherwise determined by the Secretary of Defense to be in the public interest.

SEC. 106. None of the funds appropriated in this Act shall be used to (1) acquire land, (2) provide for site preparation, or (3) install utilities for any family housing, except housing for which funds have been made available in annual military construction appropriation Acts.

SEC. 107. None of the funds appropriated in this Act for minor construction may be used to transfer or relocate any activity from one base or installation to another, without prior notification to the Committees on Appropriations.

SEC. 108. No part of the funds appropriated in this Act may be used for the procurement of steel for any construction project or activity for which American steel producers, fabricators, and manufacturers have been denied the opportunity to compete for such steel procurement.

SEC. 109. None of the funds available to the Department of Defense for military construction or family housing during the current fiscal year may be used to pay real property taxes in any foreign nation.

SEC. 110. None of the funds appropriated in this Act may be used to initiate a new installation overseas without prior notification to the Committees on Appropriations.

SEC. 111. None of the funds appropriated in this Act may be obligated for architect and engineer contracts estimated by the Government to exceed \$500,000 for projects to be accomplished in Japan or in any NATO member country, unless such contracts are awarded to United States firms or United States firms in joint venture with host nation firms.

SEC. 112. None of the funds appropriated in this Act for military construction in the United States territories and possessions in the Pacific and on Kwajalein Island may be used to award any contract estimated by the Government to exceed \$1,000,000 to a foreign contractor: *Provided*, That this section shall not be applicable to contract awards for which the lowest responsive and responsible bid of a United States contractor exceeds the lowest responsive and responsible bid of a foreign contractor by greater than 20 per centum.

SEC. 113. The Secretary of Defense is to inform the Committees on Appropriations and the Committees on Armed Services of the plans and scope of any proposed military exercise involving United States personnel thirty days prior to its occurring, if amounts expended for construction, either temporary or permanent, are anticipated to exceed \$100,000.

(TRANSFER OF FUNDS)

SEC. 114. Unexpended balances in the Military Family Housing Management Account established pursuant to section 2831 of title 10, United States Code, as well as any additional amounts which would otherwise be transferred to the Military Family Housing Management Account during fiscal year 1992, shall be transferred to the appropriations for Family Housing provided in this Act, as determined by the Secretary of Defense, based on the sources from which the funds were derived, and shall be available for the same purposes, and for the same time period, as the appropriation to which they have been transferred.

SEC. 115. Not more than 20 per centum of the appropriations in this Act which are limited for obligation during the current fiscal year shall be obligated during the last two months of the fiscal year.

(TRANSFER OF FUNDS)

SEC. 116. Funds appropriated to the Department of Defense for construction in prior years are hereby made available for construction authorized for each such military department by the authorizations enacted into law during the first session of the One Hundred Second Congress.

Reports.

SEC. 117. The Secretary of Defense is to provide the Committees on Appropriations of the Senate and the House of Representatives with a report by February 15, 1992, containing details of the specific actions proposed to be taken by the Department of Defense during fiscal year 1992 to encourage other member nations of the North Atlantic Treaty Organization and Japan and Korea to assume a greater share of the common defense burden of such nations and the United States.

SEC. 118. For military construction or family housing projects that are being completed with funds otherwise expired or lapsed for

obligation, expired or lapsed funds may be used to pay the cost of associated supervision, inspection, overhead, engineering and design on those projects and on subsequent claims, if any.

SEC. 119. 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 appropriated 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.

10 USC 2860
note.

SEC. 120. Of the funds appropriated in this Act for Operations and maintenance of Family Housing, no more than \$15,000,000 may be obligated for contract cleaning of family housing units.

SEC. 121. None of the funds appropriated in this Act may be used for the design, construction, operation or maintenance of new family housing units in the Republic of Korea in connection with any increase in accompanied tours after June 6, 1988.

(TRANSFER OF FUNDS)

SEC. 122. During the five-year period after appropriations available to the Department of Defense for military construction and family housing operation and maintenance and construction have expired for obligation, upon a determination that such appropriations will not be necessary for the liquidation of obligations or for making authorized adjustments to such appropriations for obligations incurred during the period of availability of such appropriations, unobligated balances of such appropriations may be transferred into the appropriation "Foreign Currency Fluctuations, Construction, Defense" to be merged with and to be available for the same time period and for the same purposes as the appropriation to which transferred: *Provided*, That the next to the last proviso of section 121 of the Military Construction Appropriations Act, 1987 (Public Law 99-500; 100 Stat. 1783-294 and Public Law 99-591; 100 Stat. 3341-294), is hereby repealed.

10 USC 2860
note.

SEC. 123. None of the funds appropriated in this Act for planning and design activities may be used to initiate design of the Pentagon Annex.

SEC. 124. None of the funds appropriated in this Act, except those necessary to exercise construction management provisions under section 2807 of title 10, United States Code, may be used for study, planning, design, or architect and engineer services related to the relocation of Yongsan Garrison, Korea.

SEC. 125. Such sums as may be necessary for fiscal year 1992 pay raises for programs funded by this Act shall be absorbed within the levels appropriated in this Act.

SEC. 126. Section 402 of Public Law 102-27 (105 Stat. 155) is amended by inserting "(a)" preceding "In", by inserting "effective November 5, 1990" after "repealed", and by adding at the end thereof the following new subsection:

18 USC 2331 *et seq.*
50 USC 1701
note.

"(b) Effective November 5, 1990, chapter 113A of title 18, United States Code, is amended to read as if section 132 of Public Law 101-519 had not been enacted."

Effective date.

Real property.

SEC. 127. (a) Notwithstanding any other provision of law, the Secretary of the Army shall transfer, no later than September 30, 1992, and without reimbursement, to the Secretary of the Interior the real property, including improvements thereon, consisting of 500 acres located generally adjacent to 7,600 acres transferred by section 126 of Public Law 101-519. The transferred property shall not include a landfill and a sewage pumping station that are associated with the operation of Fort Meade, Maryland.

(b) The Secretary of the Interior shall administer the property transferred pursuant to subsection (a) as a part of the Patuxent Wildlife Research Center and in a manner consistent with wildlife conservation purposes and shall provide for the continued use of the property by Federal agencies, including the Department of Defense, to the extent that such agencies are using it on the date of the enactment of this Act.

(c) The Secretary of the Interior may not convey, lease, transfer, declare excess or surplus, or otherwise dispose of any portion of the property transferred pursuant to subsection (a) unless approved by law. The Secretary of the Interior may enter into cooperative agreements and issue special use permits for historic uses of the 500 acres: Provided, That they are consistent with all laws pertaining to wildlife refuges.

(d) The description of the property to be transferred under this section shall be determined by a survey satisfactory to the Director of the United States Fish and Wildlife Service within the Department of the Interior, after consultation with the Department of the Army.

Real property.
Utah.

SEC. 128. (a) The Secretary of the Army shall carry out such repairs and take such other preservation and maintenance actions as are necessary to ensure that all real property at Fort Douglas, Utah (including buildings and other improvements) that has been conveyed or is to be conveyed pursuant to section 130 of the Military Construction Appropriations Act, 1991 (Public Law 101-519; 104 Stat. 2248) is free from natural gas leaks and other safety-threatening defects. In carrying out this subsection, the Secretary shall conduct a natural gas survey of the property.

(b) In the case of property referred to in subsection (a) that is within the boundaries of the Fort Douglas National Historic Landmark, the Secretary—

(1) shall carry out a structural engineering survey of the property; and

(2) in addition to carrying out the repairs and taking the other actions required by subsection (a), shall repair and restore such property (but only to the extent that structural repairs are necessary) in a manner and to an extent specified by the Secretary of the Interior that is consistent with the historic preservation laws (including regulations) referred to in section 130(c)(2) of the Military Construction Appropriations Act, 1991.

(c)(1) The Secretary of the Army, after consulting with the Governor of Utah regarding the condition of the property referred to in subsection (a), shall certify to the Committees on Appropriations of the Senate and the House of Representatives that the repairs and preservation and maintenance actions required by subsection (a) have been completed.

(2) The Secretary of the Army and the Secretary of the Interior shall jointly certify to the Committees on Appropriations of the Senate and the House of Representatives that the repairs and

restoration of such property has been carried out in accordance with the requirements of subsection (b).

(d) The Secretary of the Army shall complete all actions required by this section not later than September 30, 1992.

This Act may be cited as the "Military Construction Appropriations Act, 1992".

Approved October 25, 1991.

LEGISLATIVE HISTORY—H.R. 2426:

HOUSE REPORTS: Nos. 102-74 (Comm. on Appropriations) and 102-236 (Comm. of Conference).

SENATE REPORTS: No. 102-147 (Comm. on Appropriations).

CONGRESSIONAL RECORD, Vol. 137 (1991):

May 30, considered and passed House.

Sept. 16, considered and passed Senate, amended.

Oct. 8, House agreed to conference report; receded and concurred in certain Senate amendments, in others with amendments.

Oct. 16, Senate agreed to conference report; concurred in House amendments.