

Calendar No. 169

107TH CONGRESS
1ST SESSION

S. 1460

[Report No. 107–68]

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.

IN THE SENATE OF THE UNITED STATES

SEPTEMBER 25, 2001

Mrs. FEINSTEIN, from the Committee on Appropriations, reported the following original bill; which was read twice and placed on the calendar

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-
6 ment and closure functions administered by the Depart-

1 ment of Defense, for the fiscal year ending September 30,
2 2002, and for other purposes, namely:

3 MILITARY CONSTRUCTION, ARMY

4 (INCLUDING RESCISSION)

5 For acquisition, construction, installation, and equip-
6 ment of temporary or permanent public works, military
7 installations, facilities, and real property for the Army as
8 currently authorized by law, including personnel in the
9 Army Corps of Engineers and other personal services nec-
10 essary for the purposes of this appropriation, and for con-
11 struction and operation of facilities in support of the func-
12 tions of the Commander in Chief, \$1,668,957,000, to re-
13 main available until September 30, 2006: *Provided*, That
14 of this amount, not to exceed \$176,184,000 shall be avail-
15 able for study, planning, design, architect and engineer
16 services, and host nation support, as authorized by law,
17 unless the Secretary of Defense determines that additional
18 obligations are necessary for such purposes and notifies
19 the Committees on Appropriations of both Houses of Con-
20 gress of his determination and the reasons therefor: *Pro-*
21 *vided further*, That of the funds appropriated for “Military
22 Construction, Army” under division A of Public Law 106–
23 246, \$26,400,000 are rescinded.

MILITARY CONSTRUCTION, NAVY

(INCLUDING RESCISSION)

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, \$1,148,633,000, to remain available until September 30, 2006: *Provided*, That of this amount, not to exceed \$37,332,000 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 division A of Public Law 106–246, \$19,588,000 are rescinded.

MILITARY CONSTRUCTION, AIR FORCE

(INCLUDING RESCISSION)

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, \$1,148,269,000, to remain

1 available until September 30, 2006: *Provided*, That of this
 2 amount, not to exceed \$83,420,000 shall be available for
 3 study, planning, design, architect and engineer services,
 4 as authorized by law, unless the Secretary of Defense de-
 5 termines that additional obligations are necessary for such
 6 purposes and notifies the Committees on Appropriations
 7 of both Houses of Congress of his determination and the
 8 reasons therefor: *Provided further*, That of the funds ap-
 9 propriated for “Military Construction, Air Force” under
 10 previous Military Construction Acts, \$4,000,000 are re-
 11 scinded.

12 MILITARY CONSTRUCTION, DEFENSE-WIDE

13 (INCLUDING TRANSFER AND RESCISSIONS OF FUNDS)

14 For acquisition, construction, installation, and equip-
 15 ment of temporary or permanent public works, installa-
 16 tions, facilities, and real property for activities and agen-
 17 cies of the Department of Defense (other than the military
 18 departments), as currently authorized by law,
 19 \$881,058,000, to remain available until September 30,
 20 2006: *Provided*, That such amounts of this appropriation
 21 as may be determined by the Secretary of Defense may
 22 be transferred to such appropriations of the Department
 23 of Defense available for military construction or family
 24 housing as he may designate, to be merged with and to
 25 be available for the same purposes, and for the same time

1 period, as the appropriation or fund to which transferred:
 2 *Provided further*, That of the amount appropriated, not
 3 to exceed \$88,496,000 shall be available for study, plan-
 4 ning, design, architect and engineer services, as authorized
 5 by law, unless the Secretary of Defense determines that
 6 additional obligations are necessary for such purposes and
 7 notifies the Committees on Appropriations of both Houses
 8 of Congress of his determination and the reasons therefor:
 9 *Provided further*, That of the funds appropriated for “Mili-
 10 tary Construction, Defense-wide” under division A of Pub-
 11 lic Law 106–246, \$55,030,000 are rescinded: *Provided*
 12 *further*, That of the funds appropriated for “Military Con-
 13 struction, Defense-wide” under division B of Public Law
 14 106–246, \$10,250,000 are rescinded: *Provided further*,
 15 That of the funds appropriated for “Military Construc-
 16 tion, Defense-Wide” under previous Military Construction
 17 Acts, \$4,000,000 are rescinded.

18 MILITARY CONSTRUCTION, ARMY NATIONAL GUARD

19 For construction, acquisition, expansion, rehabilita-
 20 tion, and conversion of facilities for the training and ad-
 21 ministration of the Army National Guard, and contribu-
 22 tions therefor, as authorized by chapter 1803 of title 10,
 23 United States Code, and Military Construction Authoriza-
 24 tion Acts, \$378,549,000, to remain available until Sep-
 25 tember 30, 2006.

1 MILITARY CONSTRUCTION, AIR NATIONAL GUARD

2 For construction, acquisition, expansion, rehabilita-
3 tion, and conversion of facilities for the training and ad-
4 ministration of the Air National Guard, and contributions
5 therefor, as authorized by chapter 1803 of title 10, United
6 States Code, and Military Construction Authorization
7 Acts, \$222,767,000, to remain available until September
8 30, 2006.

9 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 1803 of title 10, United States Code, and Military Construction Authorization Acts, \$111,404,000, to remain available until September 30, 2006.

16 MILITARY CONSTRUCTION, NAVAL RESERVE

17 (INCLUDING RESCISSION)

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 1803 of title 10, United States Code, and Military Construction Authorization Acts, \$33,641,000, to remain available until September 30, 2006: *Provided*, That of the funds appropriated for “Military Construction, Naval Reserve” under

1 division A of Public Law 106–246, \$925,000 are re-
 2 scinded.

3 MILITARY CONSTRUCTION, AIR FORCE RESERVE

4 For construction, acquisition, expansion, rehabilita-
 5 tion, and conversion of facilities for the training and ad-
 6 ministration of the Air Force Reserve as authorized by
 7 chapter 1803 of title 10, United States Code, and Military
 8 Construction Authorization Acts, \$53,732,000, to remain
 9 available until September 30, 2006.

10 NORTH ATLANTIC TREATY ORGANIZATION SECURITY

11 INVESTMENT PROGRAM

12 For the United States share of the cost of the North
 13 Atlantic Treaty Organization Security Investment Pro-
 14 gram for the acquisition and construction of military fa-
 15 cilities and installations (including international military
 16 headquarters) and for related expenses for the collective
 17 defense of the North Atlantic Treaty Area as authorized
 18 in Military Construction Authorization Acts and section
 19 2806 of title 10, United States Code, \$162,600,000, to
 20 remain available until expended.

21 FAMILY HOUSING, ARMY

22 For expenses of family housing for the Army for con-
 23 struction, including acquisition, replacement, addition, ex-
 24 pansion, extension and alteration and for operation and
 25 maintenance, including debt payment, leasing, minor con-

1 struction, principal and interest charges, and insurance
 2 premiums, as authorized by law, as follows: for Construc-
 3 tion, \$312,742,000, to remain available until September
 4 30, 2006; for Operation and Maintenance, and for debt
 5 payment, \$1,108,991,000; in all \$1,421,733,000.

6 FAMILY HOUSING, NAVY AND MARINE CORPS

7 For expenses of family housing for the Navy and Ma-
 8 rine Corps for construction, including acquisition, replace-
 9 ment, addition, expansion, extension and alteration and
 10 for operation and maintenance, including debt payment,
 11 leasing, minor construction, principal and interest
 12 charges, and insurance premiums, as authorized by law,
 13 as follows: for Construction, \$312,600,000, to remain
 14 available until September 30, 2006; for Operation and
 15 Maintenance, and for debt payment, \$918,095,000; in all
 16 \$1,230,695,000.

17 FAMILY HOUSING, AIR FORCE

18 For expenses of family housing for the Air Force for
 19 construction, including acquisition, replacement, addition,
 20 expansion, extension and alteration and for operation and
 21 maintenance, including debt payment, leasing, minor con-
 22 struction, principal and interest charges, and insurance
 23 premiums, as authorized by law, as follows: for Construc-
 24 tion, \$550,703,000, to remain available until September

1 30, 2006; for Operation and Maintenance, and for debt
2 payment, \$869,121,000; in all \$1,419,824,000.

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, PART IV

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), \$682,200,000, to remain available
6 until expended.

7 GENERAL PROVISIONS

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

15 SEC. 102. Funds appropriated to the Department of
16 Defense for construction shall be available for hire of pas-
17 senger motor vehicles.

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

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

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

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

21 SEC. 107. None of the funds appropriated in Military
22 Construction Appropriations Acts for minor construction
23 may be used to transfer or relocate any activity from one
24 base or installation to another, without prior notification
25 to the Committees on Appropriations.

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

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

11 SEC. 110. None of the funds appropriated in Military
12 Construction Appropriations Acts may be used to initiate
13 a new installation overseas without prior notification to
14 the Committees on Appropriations.

15 SEC. 111. None of the funds appropriated in Military
16 Construction Appropriations Acts may be obligated for ar-
17 chitect and engineer contracts estimated by the Govern-
18 ment to exceed \$500,000 for projects to be accomplished
19 in Japan, in any NATO member country, or in countries
20 bordering the Arabian Gulf, unless such contracts are
21 awarded to United States firms or United States firms
22 in joint venture with host nation firms.

23 SEC. 112. None of the funds appropriated in Military
24 Construction Appropriations Acts for military construc-
25 tion in the United States territories and possessions in the

1 Pacific and on Kwajalein Atoll, or in countries bordering
2 the Arabian Gulf, may be used to award any contract esti-
3 mated by the Government to exceed \$1,000,000 to a for-
4 eign contractor: *Provided*, That this section shall not be
5 applicable to contract awards for which the lowest respon-
6 sive and responsible bid of a United States contractor ex-
7 ceeds the lowest responsive and responsible bid of a for-
8 eign contractor by greater than 20 percent: *Provided fur-*
9 *ther*, That this section shall not apply to contract awards
10 for military construction on Kwajalein Atoll for which the
11 lowest responsive and responsible bid is submitted by a
12 Marshallese contractor.

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

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

(TRANSFER OF FUNDS)

1

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

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

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

(TRANSFER OF FUNDS)

1
2 SEC. 118. During the 5-year period after appropria-
3 tions available to the Department of Defense for military
4 construction and family housing operation and mainte-
5 nance and construction have expired for obligation, upon
6 a determination that such appropriations will not be nec-
7 essary for the liquidation of obligations or for making au-
8 thorized adjustments to such appropriations for obliga-
9 tions incurred during the period of availability of such ap-
10 propriations, unobligated balances of such appropriations
11 may be transferred into the appropriation “Foreign Cur-
12 rency Fluctuations, Construction, Defense” to be merged
13 with and to be available for the same time period and for
14 the same purposes as the appropriation to which trans-
15 ferred.

16 SEC. 119. The Secretary of Defense is to provide the
17 Committees on Appropriations of the Senate and the
18 House of Representatives with an annual report by Feb-
19 ruary 15, containing details of the specific actions pro-
20 posed to be taken by the Department of Defense during
21 the current fiscal year to encourage other member nations
22 of the North Atlantic Treaty Organization, Japan, Korea,
23 and United States allies bordering the Arabian Gulf to as-
24 sume a greater share of the common defense burden of
25 such nations and the United States.

(TRANSFER OF FUNDS)

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

(TRANSFER OF FUNDS)

13
14 SEC. 121. 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
26 the Department of Defense pursuant to the provisions of

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

4 SEC. 122. None of the funds appropriated or made
5 available by this Act may be obligated for Partnership for
6 Peace Programs in the New Independent States of the
7 former Soviet Union.

8 SEC. 123. (a) Not later than 60 days before issuing
9 any solicitation for a contract with the private sector for
10 military family housing the Secretary of the military de-
11 partment concerned shall submit to the congressional de-
12 fense committees the notice described in subsection (b).

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

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

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

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

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

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

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

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

13 (TRANSFER OF FUNDS)

SEC. 124. During the current fiscal year, in addition to any other transfer authority available to the Department of Defense, amounts may be transferred from the account established by section 2906(a)(1) of the Department of Defense Authorization Act, 1991, to the fund established by section 1013(d) of the Demonstration Cities and Metropolitan Development Act of 1966 (42 U.S.C. 3374) to pay for expenses associated with the Homeowners Assistance Program. Any amounts transferred shall be merged with and be available for the same purposes and for the same time period as the fund to which transferred.

1 SEC. 125. 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 \$35,000 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 for each indi-
14 vidual flag and general officer quarters for the prior fiscal
15 year.

16 SEC. 126. In addition to the amounts provided in
17 Public Law 107–20, of the funds appropriated under the
18 heading “Military Construction, Air Force” in this Act,
19 \$8,000,000 is to remain available until September 30,
20 2005: *Provided*, That notwithstanding any other provision
21 of law, such funds may be obligated or expended to carry
22 out planning and design and military construction activi-
23 ties at the Masirah Island Airfield in Oman, not otherwise
24 authorized by law.

1 SEC. 127. Not later than 90 days after the enactment
2 of this bill, the Secretary of Defense shall submit to the
3 congressional defense committees a master plan for the
4 environmental remediation of Hunters Point Naval Ship-
5 yard, California. The plan shall identify an aggregate cost
6 estimate for the entire project as well as cost estimates
7 for individual parcels. The plan shall also include a de-
8 tailed cleanup schedule and an analysis of whether the De-
9 partment is meeting legal requirements and community
10 commitments. Following submission of the initial report,
11 the Department shall submit semi-annual progress reports
12 to the congressional defense committees.

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

Calendar No. 169

107TH CONGRESS
1ST SESSION

S. 1460

[Report No. 107-68]

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.

SEPTEMBER 25, 2001

Read twice and placed on the calendar