

Calendar No. 479

107TH CONGRESS
2^D SESSION

S. 2709

[Report No. 107–202]

Making appropriations for military construction, family housing, and base realignment and closure for the Department of Defense for the fiscal year ending September 30, 2003, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JULY 3, 2002

Mrs. FEINSTEIN, from the Committee on Appropriations, reported, under the authority of the order of the Senate of June 26, 2002, 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, 2003, 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 2003, 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, \$1,679,212,000, to re-
14 main available until September 30, 2007: *Provided*, That
15 of this amount, not to exceed \$136,835,000 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 107–64,
24 \$13,676,000 are rescinded.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, \$1,216,643,000, to remain available until September
10 30, 2007: *Provided*, That of this amount, not to exceed
11 \$91,620,000 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 Public Law 107–64,
19 \$1,340,000 are rescinded.

20 MILITARY CONSTRUCTION, AIR FORCE
21 (INCLUDING RESCISSION)

22 For acquisition, construction, installation, and equip-
23 ment of temporary or permanent public works, military
24 installations, facilities, and real property for the Air Force
25 as currently authorized by law, \$1,175,617,000, to remain

1 available until September 30, 2007: *Provided*, That of this
 2 amount, not to exceed \$87,555,000 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 Public Law 107–64, \$10,281,000 are rescinded.

11 MILITARY CONSTRUCTION, DEFENSE-WIDE

12 (INCLUDING TRANSFER AND RESCISSIONS OF FUNDS)

13 For acquisition, construction, installation, and equip-
 14 ment of temporary or permanent public works, installa-
 15 tions, facilities, and real property for activities and agen-
 16 cies of the Department of Defense (other than the military
 17 departments), as currently authorized by law,
 18 \$927,242,000, to remain available until September 30,
 19 2007: *Provided*, That such amounts of this appropriation
 20 as may be determined by the Secretary of Defense may
 21 be transferred to such appropriations of the Department
 22 of Defense available for military construction or family
 23 housing as he may designate, to be merged with and to
 24 be available for the same purposes, and for the same time
 25 period, as the appropriation or fund to which transferred:

1 *Provided further*, That of the amount appropriated, not
2 to exceed \$57,789,000 shall be available for study, plan-
3 ning, design, architect and engineer services, as authorized
4 by law, unless the Secretary of Defense determines that
5 additional obligations are necessary for such purposes and
6 notifies the Committees on Appropriations of both Houses
7 of Congress of his determination and the reasons therefor:
8 *Provided further*, That of the funds appropriated for “Mili-
9 tary Construction, Defense-wide” under Public Law 107–
10 64, \$2,976,000 are rescinded.

11 MILITARY CONSTRUCTION, ARMY NATIONAL GUARD

12 For construction, acquisition, expansion, rehabilita-
13 tion, and conversion of facilities for the training and ad-
14 ministration of the Army National Guard, and contribu-
15 tions therefor, as authorized by chapter 1803 of title 10,
16 United States Code, and Military Construction Authoriza-
17 tion Acts, \$208,482,000, to remain available until Sep-
18 tember 30, 2007.

19 MILITARY CONSTRUCTION, AIR NATIONAL GUARD

20 For construction, acquisition, expansion, rehabilita-
21 tion, and conversion of facilities for the training and ad-
22 ministration of the Air National Guard, and contributions
23 therefor, as authorized by chapter 1803 of title 10, United
24 States Code, and Military Construction Authorization

1 Acts, \$217,988,000, to remain available until September
2 30, 2007.

3 MILITARY CONSTRUCTION, ARMY RESERVE

4 For construction, acquisition, expansion, rehabilita-
5 tion, and conversion of facilities for the training and ad-
6 ministration of the Army Reserve as authorized by chapter
7 1803 of title 10, United States Code, and Military Con-
8 struction Authorization Acts, \$66,487,000, to remain
9 available until September 30, 2007.

10 MILITARY CONSTRUCTION, NAVAL RESERVE

11 For construction, acquisition, expansion, rehabilita-
12 tion, and conversion of facilities for the training and ad-
13 ministration of the reserve components of the Navy and
14 Marine Corps as authorized by chapter 1803 of title 10,
15 United States Code, and Military Construction Authoriza-
16 tion Acts, \$58,671,000, to remain available until Sep-
17 tember 30, 2007.

18 MILITARY CONSTRUCTION, AIR FORCE RESERVE

19 For construction, acquisition, expansion, rehabilita-
20 tion, and conversion of facilities for the training and ad-
21 ministration of the Air Force Reserve as authorized by
22 chapter 1803 of title 10, United States Code, and Military
23 Construction Authorization Acts, \$58,209,000, to remain
24 available until September 30, 2007.

1 NORTH ATLANTIC TREATY ORGANIZATION SECURITY
2 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 in Military Construction Authorization Acts and section
10 2806 of title 10, United States Code, \$168,200,000, to
11 remain available until expended.

12 FAMILY HOUSING CONSTRUCTION, ARMY
13 (INCLUDING RESCISSION)

14 For expenses of family housing for the Army for con-
15 struction, including acquisition, replacement, addition, ex-
16 pansion, extension and alteration, as authorized by law,
17 \$282,856,000, to remain available until September 30,
18 2007: *Provided*, That of the funds appropriated for “Fam-
19 ily Housing Construction, Army” under Public Law 107–
20 64, \$4,920,000 are rescinded.

21 FAMILY HOUSING OPERATION AND MAINTENANCE,
22 ARMY

23 For expenses of family housing for the Army for op-
24 eration and maintenance, including debt payment, leasing,

1 minor construction, principal and interest charges, and in-
2 surance premiums, as authorized by law, \$1,119,007,000.

3 FAMILY HOUSING CONSTRUCTION, NAVY AND MARINE
4 CORPS

5 (INCLUDING RESCISSION)

6 For expenses of family housing for the Navy and Ma-
7 rine Corps for construction, including acquisition, replace-
8 ment, addition, expansion, extension and alteration, as au-
9 thorized by law, \$374,468,000, to remain available until
10 September 30, 2007: *Provided*, That of the funds appro-
11 priated for “Family Housing Construction, Navy and Ma-
12 rine Corps” under Public Law 107–64, \$2,652,000 are
13 rescinded.

14 FAMILY HOUSING OPERATION AND MAINTENANCE,
15 NAVY AND MARINE CORPS

16 For expenses of family housing for the Navy and Ma-
17 rine Corps for operation and maintenance, including debt
18 payment, leasing, minor construction, principal and inter-
19 est charges, and insurance premiums, as authorized by
20 law, \$867,788,000.

21 FAMILY HOUSING CONSTRUCTION, AIR FORCE

22 (INCLUDING RESCISSION)

23 For expenses of family housing for the Air Force for
24 construction, including acquisition, replacement, addition,
25 expansion, extension and alteration, as authorized by law,

1 \$676,694,000, to remain available until September 30,
2 2007: *Provided*, That of the funds appropriated for “Fam-
3 ily Housing Construction, Air Force” under Public Law
4 107–64, \$8,782,000 are rescinded.

5 FAMILY HOUSING OPERATION AND MAINTENANCE, AIR
6 FORCE

7 For expenses of family housing for the Air Force for
8 operation and maintenance, including debt payment, leas-
9 ing, minor construction, principal and interest charges,
10 and insurance premiums, as authorized by law,
11 \$874,050,000.

12 FAMILY HOUSING CONSTRUCTION, DEFENSE-WIDE

13 For expenses of family housing for the activities and
14 agencies of the Department of Defense (other than the
15 military departments) for construction, including acquisi-
16 tion, replacement, addition, expansion, extension and al-
17 teration, as authorized by law, \$5,480,000, to remain
18 available until September 30, 2007.

19 FAMILY HOUSING OPERATION AND MAINTENANCE,
20 DEFENSE-WIDE

21 For expenses of family housing for the activities and
22 agencies of the Department of Defense (other than the
23 military departments) for operation and maintenance,
24 leasing, and minor construction, as authorized by law,
25 \$42,395,000.

1 DEPARTMENT OF DEFENSE FAMILY HOUSING
2 IMPROVEMENT FUND

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

9 BASE REALIGNMENT AND CLOSURE ACCOUNT

10 For deposit into the Department of Defense Base
11 Closure Account 1990 established by section 2906(a)(1)
12 of the Department of Defense Authorization Act, 1991
13 (Public Law 101–510), \$645,138,000, to remain available
14 until expended.

15 GENERAL PROVISIONS

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

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

1 SEC. 103. Funds appropriated to the Department of
2 Defense for construction may be used for advances to the
3 Federal Highway Administration, Department of Trans-
4 portation, for the construction of access roads as author-
5 ized by section 210 of title 23, United States Code, when
6 projects authorized therein are certified as important to
7 the national defense by the Secretary of Defense.

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

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

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

1 funds have been made available in annual Military Con-
2 struction Appropriations Acts.

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

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

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

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

22 SEC. 111. None of the funds appropriated in Military
23 Construction Appropriations Acts may be obligated for ar-
24 chitect and engineer contracts estimated by the Govern-
25 ment to exceed \$500,000 for projects to be accomplished

1 in Japan, in any NATO member country, or in countries
2 bordering the Arabian Sea, unless such contracts are
3 awarded to United States firms or United States firms
4 in joint venture with host nation firms.

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

20 SEC. 113. The Secretary of Defense is to inform the
21 appropriate committees of Congress, including the Com-
22 mittees on Appropriations, of the plans and scope of any
23 proposed military exercise involving United States per-
24 sonnel 30 days prior to its occurring, if amounts expended

1 for construction, either temporary or permanent, are an-
2 ticipated to exceed \$100,000.

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

8 (TRANSFER OF FUNDS)

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

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

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

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

6 (TRANSFER OF FUNDS)

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

21 SEC. 119. The Secretary of Defense is to provide the
22 Committees on Appropriations of the Senate and the
23 House of Representatives with an annual report by Feb-
24 ruary 15, containing details of the specific actions pro-
25 posed to be taken by the Department of Defense during
26 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 Sea 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 (TRANSFER OF FUNDS)

18 SEC. 121. Subject to 30 days prior notification to the
19 Committees on Appropriations, such additional amounts
20 as may be determined by the Secretary of Defense may
21 be transferred to the Department of Defense Family
22 Housing Improvement Fund from amounts appropriated
23 for construction in “Family Housing” accounts, to be
24 merged with and to be available for the same purposes
25 and for the same period of time as amounts appropriated
26 directly to the Fund: *Provided*, That appropriations made

1 available to the Fund shall be available to cover the costs,
2 as defined in section 502(5) of the Congressional Budget
3 Act of 1974, of direct loans or loan guarantees issued by
4 the Department of Defense pursuant to the provisions of
5 subchapter IV of chapter 169, title 10, United States
6 Code, pertaining to alternative means of acquiring and im-
7 proving military family housing and supporting facilities.

8 SEC. 122. None of the funds appropriated or made
9 available by this Act may be obligated for Partnership for
10 Peace Programs in the New Independent States of the
11 former Soviet Union.

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

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

22 (A) the closure or realignment of the installa-
23 tion for which housing is provided under the con-
24 tract;

1 (B) a reduction in force of units stationed at
2 such installation; or

3 (C) the extended deployment overseas of units
4 stationed at such installation.

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

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

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

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

17 (TRANSFER OF FUNDS)

18 SEC. 124. During the current fiscal year, in addition
19 to any other transfer authority available to the Depart-
20 ment of Defense, amounts may be transferred from the
21 account established by section 2906(a)(1) of the Depart-
22 ment of Defense Authorization Act, 1991, to the fund es-
23 tablished by section 1013(d) of the Demonstration Cities
24 and Metropolitan Development Act of 1966 (42 U.S.C.
25 3374) to pay for expenses associated with the Home-
26 owners Assistance Program. Any amounts transferred

1 shall be merged with and be available for the same pur-
2 poses and for the same time period as the fund to which
3 transferred.

4 SEC. 125. Notwithstanding this or any other provi-
5 sion of law, funds appropriated in Military Construction
6 Appropriations Acts for operations and maintenance of
7 family housing shall be the exclusive source of funds for
8 repair and maintenance of all family housing units, includ-
9 ing general or flag officer quarters: *Provided*, That not
10 more than \$35,000 per unit may be spent annually for
11 the maintenance and repair of any general or flag officer
12 quarters without 30 days advance prior notification to the
13 appropriate committees of Congress, except that an after-
14 the-fact notification shall be submitted if the limitation is
15 exceeded solely due to costs associated with environmental
16 remediation that could not be reasonably anticipated at
17 the time of the budget submission: *Provided further*, That
18 the Under Secretary of Defense (Comptroller) is to report
19 annually to the Committees on Appropriations all oper-
20 ations and maintenance expenditures for each individual
21 general or flag officer quarters for the prior fiscal year.

22 SEC. 126. (a) REQUESTS FOR FUNDS FOR ENVIRON-
23 MENTAL RESTORATION AT BRAC SITES IN FUTURE FIS-
24 CAL YEARS.—In the budget justification materials sub-
25 mitted to Congress in support of the Department of De-

1 fense budget for any fiscal year after fiscal year 2003, the
2 amount requested for environmental restoration, waste
3 management, and environmental compliance activities in
4 such fiscal year with respect to military installations ap-
5 proved for closure or realignment under the base closure
6 laws shall accurately reflect the anticipated cost of such
7 activities in such fiscal year.

8 (b) BASE CLOSURE LAWS DEFINED.—In this sec-
9 tion, the term “base closure laws” means the following:

10 (1) Section 2687 of title 10, United States
11 Code.

12 (2) The Defense Base Closure and Realignment
13 Act of 1990 (part A of title XXIX of Public Law
14 101–510; 10 U.S.C. 2687 note).

15 (3) Title II of the Defense Authorization
16 Amendments and Base Closure and Realignment
17 Act (Public Law 100–526; 10 U.S.C. 2687 note).

18 This Act may be cited as the “Military Construction
19 Appropriations Act, 2003”.

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S. 2709

[Report No. 107-202]

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, 2003, and for other purposes.

JULY 3, 2002

Read twice and placed on the calendar