

The flag is a potent symbol of our Nation, but this Constitution which I hold in my hand is the soul of the Nation. The Constitution is the foundation upon which each stone of our governmental structure is laid. It is our bedrock. It touches every day of your lives, I say to the pages on both sides of the Chair. This Constitution touches every day, every hour, every minute of your lives. Practically everything you do is made possible by or is guaranteed or is protected by this Constitution. It is the prism through which each act of our Government should be examined and judged. If such an understanding were in place, we would not have to question aspects of the PATRIOT Act that might threaten privacy and due process rights of Americans because those elements would not have been included. But in our fear of terrorism and due to our inattention to the Constitution, we were stampeded into legislation that erodes some of your rights, some of every citizen's rights. Every time the executive assumes powers that are not challenged by the Congress, and every time Congress gives up its powers to the executive, our Constitution is eroded, and we come one step closer to tyranny when that happens, one step closer to the dictatorship of the executive.

I believe the Constitution deserves greater prominence in our national life. A survey conducted by Portrait of America in 2000 found—now think of this; I just couldn't believe it until I read it myself—that only half of Americans, just 51 percent, would vote for the passage of the U.S. Constitution if it were presented in ballot form today. That is incredible. Some 22 percent of respondents would vote against the Constitution. I will tell you, that is about enough to make your hair stand on end. And 27 percent were not sure if they would support it. Those are eye-opening findings. I say they are hair-raising, hair-curling findings. That ought to curl your hair. If you don't have any, it ought to make your hair grow where there is none. Twenty-seven percent were not sure if they would support it. Those are eye-opening findings, to be sure.

While some attribute this outcome to a general disaffection with Government, I believe that the survey findings are the result of ignorance. Too many citizens do not know what the Constitution does. Many citizens revere the Constitution, but they don't know what is in it. Many Members of this body really don't know what is in the Constitution. They have read some portion. If they are lawyers, they might be very familiar with this portion or that portion, this amendment or that one, but to know about the Constitution, what is in it, what it does, many of us are ignorant. Even fewer know why the Constitution was designed the way it was.

Most people do not appreciate all of the safeguards created by the Framers to prevent our new government from

becoming like a colonial government, subject to the whims of a tyrant. They do not understand what the checks and balances in our governmental structure are meant to do, nor the importance of maintaining those checks and balances.

Frankly, there are too many Members of Congress who do not appear to understand or appreciate those checks and balances. When it comes to the Executive, too many Members of this body want to side with the Executive. They are monarchists, I would say. They almost look upon the President as a king. As a result, over the years, the power of the legislative branch has eroded, while the power of the executive branch has grown. Congress has ceded much of its power, and it does so willingly. It has ceded much of its power willingly to the Executive, to the point that we have few tools remaining with which to rein in an autocratic Executive.

When the Constitution was circulated for ratification in 1787, there was active political debate. Pamphlets were written and essays were written. The Constitution was a topic of conversation around dinner tables and at public meeting places. The Federalist Papers were widely printed, widely read, widely discussed. They were the centerpiece of the debate over the form of this new government. I doubt that one could today find many people outside of collegiate American history and politics majors who have read the Federalist Papers. In these days of television, radio, and movies, we no longer have the quiet evenings of discussion that the Founders knew. We are too busy with pseudo "reality" shows to spend time worrying about our own reality, our own government.

Without such a national debate, the results of a similar survey in 1787 might have been the same as in 2000. As a nation, we are fortunate such a debate took place. The 2000 survey shows unequivocally that greater knowledge about our Constitution is needed.

I believe a necessary step in raising the profile of the Constitution involves giving it equal billing with Christopher Columbus, with Flag Day, and with the Fourth of July. September 17, the anniversary of the signing of the Constitution, should be declared a national holiday. And so, Mr. President, on Wednesday of last week I submitted to the desk legislation to do just that. That legislation would declare September 17 "Constitution Day" and would encourage citizens to observe the day with appropriate ceremonies, including a reading of the Constitution. Currently, September 17 is designated "Citizenship Day," recognizing all who, by birth or by naturalization, are citizens of the United States. Citizenship in our great Nation is certainly a worthy topic, and it merits recognition. But more importantly, I believe, this is the document that establishes the duties and rights of citizenship, the document that establishes this Nation

as one in which all people may aspire to become citizens—the Constitution of the United States.

My hope is that observances of Constitution Day would encourage all citizens to learn more about the Constitution and their government. An informed public is our best defense against tyranny.

I know that it is late in the legislative session to introduce legislation, but I hope the calendar will not deter the Congress from taking up and adopting this legislation. It is not a partisan matter. The Constitution is there for all Americans, regardless of their political party, irrespective of whatever political events might be on the calendar. In fact, it might be more important because of the upcoming election.

During election years, it becomes even more vital that all Americans look at the candidates and ask themselves which one will best support and defend the Constitution from all enemies, foreign and domestic. As Americans exercise the fundamental right to choose their representatives, they participate in the enduring system of government set forth in the Constitution. It is fitting and appropriate that we honor the document that established this government, and that we as a nation take steps to ensure that our Constitution and our system of government are known, understood, and cherished by the people they were established to serve.

I yield the floor.

#### MILITARY CONSTRUCTION APPROPRIATIONS ACT, 2005

The PRESIDING OFFICER. Under the previous order, the hour of 5:20 p.m. having arrived, the Senate will resume consideration of H.R. 4837, which the clerk will report.

The legislative clerk read as follows:

A bill (H.R. 4837) 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.

The PRESIDING OFFICER. There will now be 10 minutes of debate, equally divided, prior to the vote on passage of the bill. The 5 minutes on the Democratic side has already been consumed.

The Senator from Texas is recognized.

Mrs. HUTCHISON. How much time is remaining on either side?

The PRESIDING OFFICER. The majority side has 5 minutes. The minority side has exhausted its time.

Mrs. HUTCHISON. Mr. President, I ask unanimous consent that the Senator from California get 2½ minutes of the majority time.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mrs. HUTCHISON. Mr. President, this is a bill that is cut and dried. My distinguished colleague, Senator FEINSTEIN, and I have worked very closely on this bill. We are in agreement on its

priorities. I think it is a good bill for the military construction of our country.

I don't need to go over the details of the bill. Here is the bottom line: We are trying to fund the necessary military construction that will give a better quality of life and better facilities to those who are doing the job we are asking them to do. It is a pretty important job. They are protecting the freedom we enjoy today. It is that simple.

Our bill has prioritized housing, facilities where people will be trained, and especially Guard and Reserve units. In the past, I think we have shortchanged our Guard and Reserve. But we now see how important our Guard and Reserve are, how much they are doing for our country. They are being called in record numbers, and they are stepping to the plate and doing their job. So we have focused on a bill that would give more of our Guard and Reserve better facilities, which they so richly deserve.

We have more child development centers because we have more families in the military than before. We have more hospitals and medical facilities because, of course, we want to make sure we have proper medical treatment for our young men and women who are in our Armed Forces and for their families. So I think we have taken our allocation, which is \$10 billion, and we have prioritized it to make a better quality of life for those who are giving their lives for our freedom. I think it is a good bill, and I am proud to ask my colleagues to support it.

The PRESIDING OFFICER. The Senator from California is recognized.

Mrs. FEINSTEIN. Mr. President, I thank the distinguished chairman. It is always a great privilege for me to work with her. Her leadership has been superb, and I can easily say I agree with everything she has just so well stated.

The chairman mentioned that this is a \$10 billion bill. It is up 2.5 percent over last year. It funds environmental remediation. There is \$4.5 billion for Active-Duty military construction, \$1 billion for new barracks, and \$814 million for Reserve component facilities. That is 31 percent greater than the President's budget request. It includes \$361 million for BRAC environmental cleanup, including revenue from Navy land sales, and \$188 million for medical and dental clinics and hospitals. The bill also includes \$4.2 billion—more than 40 percent of the total funding—for improved family housing for service members and their families.

Mr. President, this is a good bill. I would be very hopeful that the Senate would accept it unanimously. Again, I thank the chair for her leadership. I thank the majority staff and the minority staff as well.

I yield the floor.

Mr. NICKLES. Mr. President, the pending Military Construction appropriations bill for FY 2005—S. 2674—as reported by the Senate Committee on Appropriations, provides \$10.003 billion

in budget authority and \$9.995 billion outlays in FY 2005. This amount is \$449 million above the President's request. It matches the 302(b) allocations adopted by the Senate Appropriations Committee and is \$159 million more than FY 2004 enacted level. There are no mandatory programs in the bill.

I ask unanimous consent that a table displaying the Budget Committee scoring of the bill be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

#### S. 2674, 2005 MILITARY CONSTRUCTION APPROPRIATIONS

Spending comparisons—Senate-reported bill (fiscal year 2005, \$ millions)

Category	General purpose	Mandatory	Total
Senate-reported bill:			
Budget authority .....	10,003		10,003
Outlays .....	9,995		9,995
Senate 302(b) allocation:			
Budget authority .....	10,003		10,003
Outlays .....	10,010		10,010
2004 Enacted:			
Budget authority .....	9,844		9,844
Outlays .....	10,353		10,353
President's request:			
Budget authority .....	9,554		9,554
Outlays .....	9,985		9,985
House-passed bill:			
Budget authority .....	10,003		10,003
Outlays .....	10,009		10,009
Senate-reported bill compared to:			
Senate 302(b) allocation:			
Budget authority .....	—		—
Outlays .....	—15		—15
2004 Enacted:			
Budget authority .....	159		159
Outlays .....	—358		—358
President's request:			
Budget authority .....	449		449
Outlays .....	10		10
House-passed bill:			
Budget authority .....	—		—
Outlays .....	—14		—14

NOTE: Details may not add to totals due to rounding. Totals adjusted for consistency with scorekeeping conventions.

Mr. McCAIN. Mr. President, I support passage of the fiscal year 2005 Military Construction Appropriations Act. This bill provides \$10 billion in funding for important military construction activities including base housing and the construction and maintenance of base infrastructure. Amazingly, this report contains only 35 earmarks totaling \$44.7 million, which is significantly less than the approximately \$80 million in unauthorized earmarks contained in last year's appropriations bill.

Although 70 percent of these earmarks are directed to the States of appropriators, I applaud the Military Construction Subcommittee for their generally clean bill. I am particularly pleased by the language in the report that specifically states that the committee has provided construction funds only for projects that were included in the Senate-passed version of the fiscal year 2005 Defense Authorization Act, currently pending in conference. This appropriations bill is a good example of how the legislative process is expected to work, wherein the work of the authorizers is fully taken into account by the appropriators. I hope this can be emulated by all appropriations subcommittees and authorizing committees.

As we progress towards the scheduled base closure and realignment round in 2005, I am encouraged to see that my

colleagues have resisted the temptation to add pork to bases in their States in what would be a misguided effort to save their bases base closure. Such efforts would be a waste of taxpayer money and would not prevent their base from being closed.

In an effort to contain the wasteful spending inherent in Member-requested construction projects. I sponsored, and the Senate adopted, merit-based criteria for evaluating member add-ons as a part of the fiscal year 1995 Defense Authorization Act. The criteria are: No. 1, the project is in the service's future years defense plan; No. 2, the project is mission essential; No. 3, the project does not conflict with base realignment proposals; No. 5, the service can offset the proposed expenditure within that year's budget request.

These criteria have been useful in ferreting out programs or projects of questionable merit, and in determining the relative priority of projects that have been requested by Members for strictly parochial reasons, often at the expense of the readiness of our Armed Forces. Unfortunately, in the years that these criteria have been in place, no offsets have been provided for any project.

All of the 35 earmarks, totaling \$44.7 million, are under the minor construction account. Normally, this account is intended to be used for urgent and unforeseen requirements and, therefore, neither the President's budget nor the authorizing committees identify specific projects to be funded. Once the services decide to spend the money, the authorizing and appropriations committees must approve or disapprove of the minor construction project to which the services plan to fund. By earmarking the funds in the minor construction account, the appropriators have usurped the authority of the authorizing committee to approve or reject these projects.

I commend the chairman of the Military Construction Subcommittee, Senator HUTCHISON, and the ranking member, Senator FEINSTEIN, for their work on this bill and their continued support for our military. Their attention and commitment to only supporting high-priority projects for the Navy, Marine Corps, Army and Air Force is once again exemplary and provide for a sound measure to fund military construction in the coming fiscal year.

Mrs. HUTCHISON. Mr. President, have the yeas and nays been ordered?

The PRESIDING OFFICER. They have not.

Mrs. HUTCHISON. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

Mrs. HUTCHISON. I yield back the remainder of our time.

The PRESIDING OFFICER. All time having expired, the question is, Shall the bill, as amended, pass? The clerk will call the roll.

The legislative clerk called the roll.

Mr. FRIST. I announce that the Senator from Tennessee (Mr. ALEXANDER), the Senator from Kentucky (Mr. McCONNELL), the Senator from Minnesota (Mr. COLEMAN), and the Senator from Oklahoma (Mr. INHOFE) are necessarily absent.

I further announce that if present and voting the Senator from Tennessee (Mr. ALEXANDER), the Senator from Kentucky (Mr. McCONNELL), and the Senator from Minnesota (Mr. COLEMAN) would each vote "yea."

Mr. REID. I announce that the Senator from Hawaii (Mr. AKAKA), the Senator from North Carolina (Mr. EDWARDS), the Senator from Florida (Mr. GRAHAM), the Senator from Hawaii (Mr. INOUE), and the Senator from Massachusetts (Mr. KERRY) are necessarily absent.

The result was announced—yeas 91, nays 0, as follows:

[Rollcall Vote No. 185 Leg.]

#### YEAS—91

Allard	Dole	McCain
Allen	Domenici	Mikulski
Baucus	Dorgan	Miller
Bayh	Durbin	Murkowski
Bennett	Ensign	Murray
Biden	Enzi	Nelson (FL)
Bingaman	Feingold	Nelson (NE)
Bond	Feinstein	Nickles
Boxer	Fitzgerald	Pryor
Breaux	Frist	Reed
Brownback	Graham (SC)	Reid
Bunning	Grassley	Roberts
Burns	Gregg	Rockefeller
Byrd	Hagel	Santorum
Campbell	Harkin	Sarbanes
Cantwell	Hatch	Schumer
Carper	Hollings	Sessions
Chafee	Hutchison	Shelby
Chambliss	Jeffords	Smith
Clinton	Johnson	Snowe
Cochran	Kennedy	Specter
Collins	Kohl	Stabenow
Conrad	Kyl	Stevens
Cornyn	Landrieu	Sununu
Corzine	Lautenberg	Talent
Craig	Leahy	Thomas
Crapo	Levin	Voinovich
Daschle	Lieberman	Warner
Dayton	Lincoln	Wyden
DeWine	Lott	
Dodd	Lugar	

#### NOT VOTING—9

Akaka	Edwards	Inouye
Alexander	Graham (FL)	Kerry
Coleman	Inhofe	McConnell

The bill (H.R. 4837), as amended, was passed as follows:

#### H.R. 4837

*Resolved*, That the bill from the House of Representatives (H.R. 4837) entitled "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," do pass with the following amendment:

Strike out all after the enacting clause and insert:

*That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated for military construction, family housing, and base realignment and closure functions administered by the Department of Defense, for the fiscal year ending September 30, 2005, and for other purposes, namely:*

#### MILITARY CONSTRUCTION, ARMY

*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, \$1,977,166,000, to remain available until September 30, 2009: Provided, That of this amount, not to exceed \$187,216,000 shall be available for study, planning, design, architect and engineer services, and host nation support, 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.*

#### MILITARY CONSTRUCTION, NAVY

*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, \$1,016,315,000, to remain available until September 30, 2009: Provided, That of this amount, not to exceed \$110,277,000 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.*

#### MILITARY CONSTRUCTION, AIR FORCE

*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, \$841,131,000, to remain available until September 30, 2009: Provided, That of this amount, not to exceed \$180,507,000 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.*

#### MILITARY CONSTRUCTION, DEFENSE-WIDE

*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, \$696,491,000, to remain available until September 30, 2009: 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 or family housing 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 \$66,336,000 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.*

#### 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 1803 of title 10, United States Code, and Military Construction Authorization Acts, \$381,765,000, to remain available until September 30, 2009.*

#### 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 1803 of title 10, United States Code, and Military Construction Authorization Acts, \$231,083,000, to remain available until September 30, 2009.*

#### 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, \$66,325,000, to remain available until September 30, 2009.*

#### 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 1803 of title 10, United States Code, and Military Construction Authorization Acts, \$33,735,000, to remain available until September 30, 2009.*

#### 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 1803 of title 10, United States Code, and Military Construction Authorization Acts, \$101,373,000, to remain available until September 30, 2009.*

#### NORTH ATLANTIC TREATY ORGANIZATION SECURITY INVESTMENT PROGRAM

*For the United States share of the cost of the North Atlantic Treaty Organization Security Investment Program 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 Authorization Acts and section 2806 of title 10, United States Code, \$165,800,000, to remain available until expended.*

#### FAMILY HOUSING CONSTRUCTION, ARMY

*For expenses of family housing for the Army for construction, including acquisition, replacement, addition, expansion, extension and alteration, as authorized by law, \$636,099,000, to remain available until September 30, 2009.*

#### FAMILY HOUSING OPERATION AND MAINTENANCE, ARMY

*For expenses of family housing for the Army for operation and maintenance, including debt payment, leasing, minor construction, principal and interest charges, and insurance premiums, as authorized by law, \$928,907,000.*

#### FAMILY HOUSING CONSTRUCTION, 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, as authorized by law, \$139,107,000, to remain available until September 30, 2009.*

#### FAMILY HOUSING OPERATION AND MAINTENANCE, NAVY AND MARINE CORPS

*For expenses of family housing for the Navy and Marine Corps for operation and maintenance, including debt payment, leasing, minor construction, principal and interest charges, and insurance premiums, as authorized by law, \$704,504,000.*

#### FAMILY HOUSING CONSTRUCTION, AIR FORCE

*For expenses of family housing for the Air Force for construction, including acquisition, replacement, addition, expansion, extension and alteration, as authorized by law, \$846,959,000, to remain available until September 30, 2009.*

**FAMILY HOUSING OPERATION AND MAINTENANCE,  
AIR FORCE**

For expenses of family housing for the Air Force for operation and maintenance, including debt payment, leasing, minor construction, principal and interest charges, and insurance premiums, as authorized by law, \$856,114,000.

**FAMILY HOUSING CONSTRUCTION, DEFENSE-WIDE**

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, as authorized by law, \$49,000, to remain available until September 30, 2009.

**FAMILY HOUSING OPERATION AND MAINTENANCE,  
DEFENSE-WIDE**

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

**DEPARTMENT OF DEFENSE FAMILY HOUSING  
IMPROVEMENT FUND**

For the Department of Defense Family Housing Improvement Fund, \$2,500,000, to remain available until expended, for family housing initiatives undertaken pursuant to section 2883 of title 10, United States Code, providing alternative means of acquiring and improving military family housing and supporting facilities.

**CHEMICAL DEMILITARIZATION CONSTRUCTION,  
DEFENSE**

For expenses of construction, not otherwise provided for, necessary for the destruction of the United States stockpile of lethal chemical agents and munitions in accordance with the provisions of section 1412 of the Department of Defense Authorization Act, 1986 (50 U.S.C. 1521), and for the destruction of other chemical warfare materials that are not in the chemical weapon stockpile, as currently authorized by law, \$81,886,000, to remain available until September 30, 2009: 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 to which transferred.

**BASE REALIGNMENT AND CLOSURE ACCOUNT**

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), \$246,116,000, to remain available until expended.

**GENERAL PROVISIONS**

SEC. 101. None of the funds appropriated in Military Construction Appropriations Acts shall be expended for payments under a cost-plus-a-fixed-fee contract for construction, 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 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 Military Construction Appropriations Acts shall

be used for purchase of land or land easements in excess of 100 percent of the value as determined by the Army Corps of Engineers or the Naval Facilities Engineering Command, except: (1) where there is a determination of value by a Federal court; (2) purchases negotiated by the Attorney General or his designee; (3) where the estimated value is less than \$25,000; or (4) as otherwise determined by the Secretary of Defense to be in the public interest.

SEC. 106. None of the funds appropriated in Military Construction Appropriations Acts 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 Appropriations Acts.

SEC. 107. None of the funds appropriated in Military Construction Appropriations Acts 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 Military Construction Appropriations Acts 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 Military Construction Appropriations Acts 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 Military Construction Appropriations Acts may be obligated for architect and engineer contracts estimated by the Government to exceed \$500,000 for projects to be accomplished in Japan, in any NATO member country, or in countries bordering the Arabian Sea, 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 Military Construction Appropriations Acts for military construction in the United States territories and possessions in the Pacific and on Kwajalein Atoll, or in countries bordering the Arabian Sea, 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 percent: Provided further, That this section shall not apply to contract awards for military construction on Kwajalein Atoll for which the lowest responsive and responsible bid is submitted by a Marshallese contractor.

SEC. 113. The Secretary of Defense is to inform the appropriate committees of Congress, including the Committees on Appropriations, of the plans and scope of any proposed military exercise involving United States personnel 30 days prior to its occurring, if amounts expended for construction, either temporary or permanent, are anticipated to exceed \$100,000.

SEC. 114. Not more than 20 percent of the appropriations in Military Construction Appropriations Acts 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 department by the authorizations enacted into law during the current session of Congress.

SEC. 116. 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. 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 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.

SEC. 118. The Secretary of Defense is to provide the Committees on Appropriations of the Senate and the House of Representatives with an annual report by February 15, containing details of the specific actions proposed to be taken by the Department of Defense during the current fiscal year to encourage other member nations of the North Atlantic Treaty Organization, Japan, Korea, and United States allies bordering the Arabian Sea to assume a greater share of the common defense burden of such nations and the United States.

SEC. 119. During the current fiscal year, in addition to any other transfer authority available to the Department of Defense, proceeds deposited to 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) pursuant to section 207(a)(2)(C) of such Act, may be transferred to the account established by section 2906(a)(1) of the Department of Defense Authorization Act, 1991, to be merged with, and to be available for the same purposes and the same time period as that account.

SEC. 120. Subject to 30 days prior notification to the Committees on Appropriations, such additional amounts as may be determined by the Secretary of Defense may be transferred to (1) the Department of Defense Family Housing Improvement Fund from amounts appropriated for construction in "Family Housing" accounts, to be merged with and to be available for the same purposes and for the same period of time as amounts appropriated directly to the Fund, or (2) the Department of Defense Military Unaccompanied Housing Improvement Fund from amounts appropriated for construction of military unaccompanied housing in "Military Construction" accounts, to be merged with and to be available for the same purposes and for the same period of time as amounts appropriated directly to the Fund: Provided, That appropriations made available to the Funds shall be available to cover the costs, as defined in section 502(5) of the Congressional Budget Act of 1974, of direct loans or loan guarantees issued by the Department of Defense pursuant to the provisions of subchapter IV of chapter 169, title 10, United States Code, pertaining to alternative means of acquiring and improving military family housing, military unaccompanied housing, and supporting facilities.

SEC. 121. None of the funds appropriated or made available by this Act may be obligated for Partnership for Peace Programs in the New Independent States of the former Soviet Union.

SEC. 122. (a) Not later than 60 days before issuing any solicitation for a contract with the private sector for military family housing the Secretary of the military department concerned shall submit to the congressional defense committees the notice described in subsection (b).

(b)(1) A notice referred to in subsection (a) is a notice of any guarantee (including the making of mortgage or rental payments) proposed to be made by the Secretary to the private party under the contract involved in the event of—

(A) the closure or realignment of the installation for which housing is provided under the contract;

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

(C) the extended deployment overseas of units 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.

(c) In this section, the term, "congressional defense 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.

SEC. 123. 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.

SEC. 124. Notwithstanding this or any other provision of law, funds appropriated in Military Construction Appropriations Acts for operations and maintenance of family housing shall be the exclusive source of funds for repair and maintenance of all family housing units, including general or flag officer quarters: Provided, That not more than \$35,000 per unit may be spent annually for the maintenance and repair of any general or flag officer quarters without 30 days advance prior notification to the appropriate committees of Congress, except that an after-the-fact notification shall be submitted if the limitation is exceeded solely due to costs associated with environmental remediation that could not be reasonably anticipated at the time of the budget submission: Provided further, That the Under Secretary of Defense (Comptroller) is to report annually to the Committees on Appropriations all operations and maintenance expenditures for each individual general or flag officer quarters for the prior fiscal year.

SEC. 125. None of the funds made available in this Act may be transferred to any department, agency, or instrumentality of the United States Government, except pursuant to a transfer made by, or transfer authority provided in, this Act or any other appropriation Act.

SEC. 126. No funds appropriated in this Act under the heading "North Atlantic Treaty Organization Security Investment Program", and no funds appropriated for any fiscal year before fiscal year 2005 for that program that remain available for obligation, may be obligated or expended for the conduct of studies of missile defense.

SEC. 127. Section 128(b)(3)(A) of Public Law 108-132 is amended by striking the words "December 31, 2004" and replacing with "August 15, 2005".

SEC. 128. During the current fiscal year, amounts contained in the Ford Island Improvement Account established under 10 U.S.C. 2814(h) are appropriated and shall be available until expended for the purposes specified in 10 U.S.C. 2814(i)(1) or until transferred pursuant to the provisions of 10 U.S.C. 2814(i)(3).

SEC. 129. (a) TRANSFER OF CERTAIN EXCESS PROPERTY AT FORT HUNTER LIGGETT, CALIFORNIA.—

(1) Notwithstanding any other provision of law, whenever the Secretary of the Army determines that any portion of real property consisting of approximately 165,000 acres at Fort

Hunter Liggett, California, is excess to the military needs of the Army, the Secretary of the Army shall first offer the property to the Secretary of Agriculture.

(2) If the Secretary of Agriculture determines, pursuant to negotiations with the Secretary of the Army, to accept any property offered under paragraph (1), the Secretary of the Army shall transfer administrative jurisdiction of such property to the Secretary of Agriculture.

(b) MANAGEMENT OF TRANSFERRED PROPERTY.—

(1) The Secretary of Agriculture shall manage any property transferred under subsection (a) as part of the National Forest System under the Act of March 1, 1911 (commonly known as "Weeks Law") (16 U.S.C. 480 et seq.), and other laws relating to the National Forest System.

(2) Any property managed under paragraph (1) shall be subject to the concurrent jurisdiction of the State of California.

(c) ADJUSTMENT OF BOUNDARIES.—

(1) Effective upon the transfer of property under subsection (a), the boundaries of Los Padres National Forest shall be modified to incorporate such property. The Chief of the United States Forest Service shall file and make available for public inspection in the Office of the Chief of the United States Forest Service in Washington, District of Columbia, a map reflecting any modification of the boundaries of Los Padres National Forest pursuant to the preceding sentence.

(2) Any property incorporated within the boundaries of Los Padres National Forest under this section shall be deemed to have been within the boundaries of Los Padres National Forest as of January 1, 1965, for purposes of section 7(a) of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 4601-9(a)).

(d) ENVIRONMENTAL MATTERS.—

(1) As part of the transfer of property under subsection (a), the Secretary of the Army shall—

(A) provide the Secretary of Agriculture all documentation and information in the possession of the Secretary of the Army on the environmental condition of such property, including an environmental baseline survey or its equivalent; and

(B) perform all environmental remediation and response necessary to protect human health and the environment on such property to the extent consistent with the use of such property as part of the National Forest System.

(2)(A) The transfer of property under subsection (a) shall not affect the responsibilities of the Secretary of the Army with respect to such property under any applicable environmental law, including Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.).

(B) Pursuant to the transfer of property, the Secretary of the Army shall perform all environmental remediation and response with respect to environmental contamination or injury to natural resources on such property that are attributable to former military activities on such property to the extent consistent with the use of such property as part of the National Forest System.

(C) The Secretary of Agriculture shall have no liability for any environmental remediation and response described in subparagraph (B).

SEC. 130. (a) ASSESSMENT OF BUDGET AUTHORITY LIMITATION ON MILITARY HOUSING PRIVATIZATION INITIATIVE.—(1) The Secretary of Defense shall assess the impacts on the military family housing program of having the total value of contracts and investments undertaken under the Military Housing Privatization Initiative reach the limitation on budget authority for the initiative specified in section 2883(g) of title 10, United States Code.

(2) The assessment shall include: an estimate of the appropriations and period of time necessary to provide the level and quality of housing contemplated under the Military Housing Privatization Initiative in the event that limita-

tion in 10 U.S.C. 2883(g) is not eliminated and the potential impact on military families if the limitation is not eliminated.

(b) The Secretary of Defense shall, no later than December 31, 2004, provide to the congressional defense committees a report of the assessment required by subparagraph (a).

(c) MILITARY HOUSING PRIVATIZATION INITIATIVE DEFINED.—In this section, the term "military housing privatization initiative" means the programs and activities undertaken under the alternative authority for the acquisition and improvement of military housing under subchapter IV of chapter 169 of title 10, United States Code.

SEC. 131. Of the amount appropriated by this Act, \$1,500,000 shall be available to the Commission on Review of Overseas Military Facility Structure of the United States.

This Act may be cited as the "Military Construction Appropriations Act, 2005".

The PRESIDING OFFICER (Mr. FITZGERALD). Under the previous order, the Senate insists on its amendment to H.R. 4837 and requests a conference with the House, and the Chair is authorized to appoint conferees on the part of the Senate.

The Presiding Officer (Mr. FITZGERALD) appointed Mrs. HUTCHISON, Mr. BURNS, Mr. CRAIG, Mr. DEWINE, Mr. BROWNBACK, Mr. STEVENS, Mrs. FEINSTEIN, Mr. INOUE, Mr. JOHNSON, Ms. LANDRIEU, and Mr. BYRD conferees on the part of the Senate.

Mr. CAMPBELL. Mr. President, is it the appropriate time to propound a unanimous consent request?

The PRESIDING OFFICER. The Senator may do so.

#### UNANIMOUS-CONSENT AGREEMENT

Mr. CAMPBELL. Mr. President, as most of my colleagues know, tomorrow is a very special day because we will be opening the first new museum in 17 years on the Mall, the National Museum of the American Indian. Many of us will be down there, and I will be down there most of the day, literally up to my neck in different commitments.

Also, tomorrow will be the last day before I leave the Senate to manage the legislative branch appropriations which will be sometime in the afternoon. I am concerned, since I will be down on the Mall in traditional tribal dress, that I will not be able to get back here in time to get changed and do all of that. My unanimous-consent request is that if it becomes necessary, I be allowed to appear on the floor to present my bill in traditional tribal dress.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

#### MORNING BUSINESS

Mr. CAMPBELL. Mr. President, I ask unanimous consent that there now be a period of morning business for debate only, with Senators speaking up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CAMPBELL. Mr. President, I yield the floor.