

107<sup>TH</sup> CONGRESS  
1<sup>ST</sup> SESSION

# H. R. 2904

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IN THE SENATE OF THE UNITED STATES

SEPTEMBER 21, 2001

Received; read twice and referred to the Committee on Appropriations

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## 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, 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,*

1 That the following sums are appropriated, out of any  
2 money in the Treasury not otherwise appropriated for  
3 military construction, family housing, and base realign-  
4 ment and closure functions administered by the Depart-  
5 ment of Defense, for the fiscal year ending September 30,  
6 2002, and for other purposes, namely:

7                   MILITARY CONSTRUCTION, ARMY

8                   (INCLUDING RESCISSION)

9           For acquisition, construction, installation, and equip-  
10 ment of temporary or permanent public works, military  
11 installations, facilities, and real property for the Army as  
12 currently authorized by law, including personnel in the  
13 Army Corps of Engineers and other personal services nec-  
14 essary for the purposes of this appropriation, and for con-  
15 struction and operation of facilities in support of the func-  
16 tions of the Commander in Chief, \$1,739,334,000, to re-  
17 main available until September 30, 2006: *Provided*, That  
18 of this amount, not to exceed \$163,141,000 shall be avail-  
19 able for study, planning, design, architect and engineer  
20 services, and host nation support, as authorized by law,  
21 unless the Secretary of Defense determines that additional  
22 obligations are necessary for such purposes and notifies  
23 the Committees on Appropriations of both Houses of Con-  
24 gress of his determination and the reasons therefor: *Pro-*  
25 *vided further*, That of the funds appropriated for “Military

1 Construction, Army” under Public Law 106–52,  
2 \$36,400,000 is hereby rescinded.

3 MILITARY CONSTRUCTION, NAVY

4 (INCLUDING RESCISSION)

5 For acquisition, construction, installation, and equip-  
6 ment of temporary or permanent public works, naval in-  
7 stallations, facilities, and real property for the Navy as  
8 currently authorized by law, including personnel in the  
9 Naval Facilities Engineering Command and other per-  
10 sonal services necessary for the purposes of this appropria-  
11 tion, \$1,154,248,000, to remain available until September  
12 30, 2006: *Provided*, That of this amount, not to exceed  
13 \$30,972,000 shall be available for study, planning, design,  
14 architect and engineer services, as authorized by law, un-  
15 less the Secretary of Defense determines that additional  
16 obligations are necessary for such purposes and notifies  
17 the Committees on Appropriations of both Houses of Con-  
18 gress of his determination and the reasons therefor: *Pro-*  
19 *vided further*, That of the funds appropriated for “Military  
20 Construction, Navy” under division A of Public Law 106–  
21 246, \$19,588,000 is hereby rescinded.

22 MILITARY CONSTRUCTION, AIR FORCE

23 For acquisition, construction, installation, and equip-  
24 ment of temporary or permanent public works, military  
25 installations, facilities, and real property for the Air Force

1 as currently authorized by law, \$1,185,220,000, to remain  
2 available until September 30, 2006: *Provided*, That of this  
3 amount, not to exceed \$83,000,000 shall be available for  
4 study, planning, design, architect and engineer services,  
5 as authorized by law, unless the Secretary of Defense de-  
6 termines that additional obligations are necessary for such  
7 purposes and notifies the Committees on Appropriations  
8 of both Houses of Congress of his determination and the  
9 reasons therefor.

10           MILITARY CONSTRUCTION, DEFENSE-WIDE

11       (INCLUDING TRANSFER AND RESCISSION OF FUNDS)

12       For acquisition, construction, installation, and equip-  
13 ment of temporary or permanent public works, installa-  
14 tions, facilities, and real property for activities and agen-  
15 cies of the Department of Defense (other than the military  
16 departments), as currently authorized by law,  
17 \$863,058,000, to remain available until September 30,  
18 2006: *Provided*, That such amounts of this appropriation  
19 as may be determined by the Secretary of Defense may  
20 be transferred to such appropriations of the Department  
21 of Defense available for military construction or family  
22 housing as he may designate, to be merged with and to  
23 be available for the same purposes, and for the same time  
24 period, as the appropriation or fund to which transferred:  
25 *Provided further*, That of the amount appropriated, not

1 to exceed \$74,496,000 shall be available for study, plan-  
2 ning, design, architect and engineer services, as authorized  
3 by law, unless the Secretary of Defense determines that  
4 additional obligations are necessary for such purposes and  
5 notifies the Committees on Appropriations of both Houses  
6 of Congress of his determination and the reasons therefor:  
7 *Provided further*, That of the funds appropriated for “Mili-  
8 tary Construction, Defense-wide” under division B, title  
9 III, chapter 3 of Public Law 106–246, \$10,250,000 is  
10 hereby 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, \$313,348,000, to remain available until Sep-  
18 tember 30, 2006.

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, \$198,803,000, to remain available until September  
2 30, 2006.

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, \$167,769,000, to remain  
9 available until September 30, 2006.

10           MILITARY CONSTRUCTION, NAVAL RESERVE

11                           (INCLUDING RESCISSION)

12           For construction, acquisition, expansion, rehabilita-  
13 tion, and conversion of facilities for the training and ad-  
14 ministration of the reserve components of the Navy and  
15 Marine Corps as authorized by chapter 1803 of title 10,  
16 United States Code, and Military Construction Authoriza-  
17 tion Acts, \$62,351,000, to remain available until Sep-  
18 tember 30, 2006: *Provided further*, That of the funds ap-  
19 propriated for “Military Construction, Naval Reserve”  
20 under division A of Public Law 106–246, \$925,000 is  
21 hereby rescinded.

22           MILITARY CONSTRUCTION, AIR FORCE RESERVE

23           For construction, acquisition, expansion, rehabilita-  
24 tion, and conversion of facilities for the training and ad-  
25 ministration of the Air Force Reserve as authorized by

1 chapter 1803 of title 10, United States Code, and Military  
2 Construction Authorization Acts, \$81,882,000, to remain  
3 available until September 30, 2006.

4 NORTH ATLANTIC TREATY ORGANIZATION  
5 SECURITY INVESTMENT PROGRAM

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

15 FAMILY HOUSING CONSTRUCTION, ARMY

16 For expenses of family housing for the Army for con-  
17 struction, including acquisition, replacement, addition, ex-  
18 pansion, extension and alteration, as authorized by law,  
19 \$294,042,000, to remain available until September 30,  
20 2006.

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, \$1,096,431,000.

3 FAMILY HOUSING CONSTRUCTION, NAVY AND MARINE  
4 CORPS

5 For expenses of family housing for the Navy and Ma-  
6 rine Corps for construction, including acquisition, replace-  
7 ment, addition, expansion, extension and alteration, as au-  
8 thorized by law, \$334,780,000, to remain available until  
9 September 30, 2006.

10 FAMILY HOUSING OPERATION AND MAINTENANCE,  
11 NAVY AND MARINE CORPS

12 For expenses of family housing for the Navy and Ma-  
13 rine Corps for operation and maintenance, including debt  
14 payment, leasing, minor construction, principal and inter-  
15 est charges, and insurance premiums, as authorized by  
16 law, \$910,095,000.

17 FAMILY HOUSING CONSTRUCTION, AIR FORCE

18 For expenses of family housing for the Air Force for  
19 construction, including acquisition, replacement, addition,  
20 expansion, extension and alteration, as authorized by law,  
21 \$536,237,000, to remain available until September 30,  
22 2006.

1 FAMILY HOUSING OPERATION AND MAINTENANCE, AIR  
2 FORCE

3 For expenses of family housing for the Air Force for  
4 operation and maintenance, including debt payment, leas-  
5 ing, minor construction, principal and interest charges,  
6 and insurance premiums, as authorized by law,  
7 \$858,121,000.

8 FAMILY HOUSING, DEFENSE-WIDE

9 For expenses of family housing for the activities and  
10 agencies of the Department of Defense (other than the  
11 military departments) for construction, including acquisi-  
12 tion, replacement, addition, expansion, extension and al-  
13 teration, and for operation and maintenance, leasing, and  
14 minor construction, as authorized by law, as follows: for  
15 construction, \$250,000 to remain available until Sep-  
16 tember 30, 2006; for Operation and Maintenance,  
17 \$43,762,000; in all \$44,012,000.

18 DEPARTMENT OF DEFENSE FAMILY HOUSING

19 IMPROVEMENT FUND

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

## 1 HOMEOWNERS ASSISTANCE FUND, DEFENSE

2 For the Homeowners Assistance Fund established by  
3 Section 1013 of the Demonstration Cities and Metropoli-  
4 tan Development Act of 1966, as amended (42 U.S.C.  
5 3374) \$10,119,000, to remain available until expended.

## 6 BASE REALIGNMENT AND CLOSURE ACCOUNT

7 For deposit into the Department of Defense Base  
8 Closure Account 1990 established by section 2906(a)(1)  
9 of the Department of Defense Authorization Act, 1991  
10 (Public Law 101–510), \$552,713,000, to remain available  
11 until expended: *Provided*, That not more than  
12 \$511,670,000 of the funds appropriated herein shall be  
13 available solely for environmental restoration, unless the  
14 Secretary of Defense determines that additional obliga-  
15 tions are necessary for such purposes and notifies the  
16 Committees on Appropriations of both Houses of Congress  
17 of his determination and the reasons therefor.

## 18 GENERAL PROVISIONS

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

1        SEC. 102. Funds appropriated to the Department of  
2 Defense for construction shall be available for hire of pas-  
3 senger motor vehicles.

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

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

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

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

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

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

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

22       SEC. 110. None of the funds appropriated in Military  
23 Construction Appropriations Acts may be used to initiate  
24 a new installation overseas without prior notification to  
25 the Committees on Appropriations.

1           SEC. 111. None of the funds appropriated in Military  
2 Construction Appropriations Acts may be obligated for ar-  
3 chitect and engineer contracts estimated by the Govern-  
4 ment to exceed \$500,000 for projects to be accomplished  
5 in Japan, in any NATO member country, or in countries  
6 bordering the Arabian Gulf, unless such contracts are  
7 awarded to United States firms or United States firms  
8 in joint venture with host nation firms.

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

24           SEC. 113. The Secretary of Defense is to inform the  
25 appropriate committees of Congress, including the Com-



1 may be obligated for a military construction project or  
2 contract, or for any portion of such a project or contract,  
3 at any time before the end of the fourth fiscal year after  
4 the fiscal year for which funds for such project were ap-  
5 propriated if the funds obligated for such project: (1) are  
6 obligated from funds available for military construction  
7 projects; and (2) do not exceed the amount appropriated  
8 for such project, plus any amount by which the cost of  
9 such project is increased pursuant to law.

10 (TRANSFER OF FUNDS)

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



1 with sections 2 through 4 of the Act of March 3, 1933  
2 (41 U.S.C. 10a–10c, popularly known as the “Buy Amer-  
3 ican Act”).

4 (b) No funds made available under this Act shall be  
5 made available to any person or entity who has been con-  
6 victed of violating the Act of March 3, 1933 (41 U.S.C.  
7 10a–10c, popularly known as the “Buy American Act”).

8 SEC. 122. (a) In the case of any equipment or prod-  
9 ucts that may be authorized to be purchased with financial  
10 assistance provided under this Act, it is the sense of the  
11 Congress that entities receiving such assistance should, in  
12 expending the assistance, purchase only American-made  
13 equipment and products.

14 (b) In providing financial assistance under this Act,  
15 the Secretary of the Treasury shall provide to each recipi-  
16 ent of the assistance a notice describing the statement  
17 made in subsection (a) by the Congress.

18 (TRANSFER OF FUNDS)

19 SEC. 123. Subject to 30 days prior notification to the  
20 Committees on Appropriations, such additional amounts  
21 as may be determined by the Secretary of Defense may  
22 be transferred to the Department of Defense Family  
23 Housing Improvement Fund from amounts appropriated  
24 for construction in “Family Housing” accounts, to be  
25 merged with and to be available for the same purposes

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

10 SEC. 124. None of the funds appropriated or made  
11 available by this Act may be obligated for Partnership for  
12 Peace Programs in the New Independent States of the  
13 former Soviet Union.

14 SEC. 125. (a) Not later than 60 days before issuing  
15 any solicitation for a contract with the private sector for  
16 military family housing the Secretary of the military de-  
17 partment concerned shall submit to the congressional de-  
18 fense committees the notice described in subsection (b).

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



1 tablished by section 1013(d) of the Demonstration Cities  
2 and Metropolitan Development Act of 1966 (42 U.S.C.  
3 3374) to pay for expenses associated with the Home-  
4 owners Assistance Program. Any amounts transferred  
5 shall be merged with and be available for the same pur-  
6 poses and for the same time period as the fund to which  
7 transferred.

8       SEC. 127. Notwithstanding this or any other provi-  
9 sion of law, funds appropriated in Military Construction  
10 Appropriations Acts for operations and maintenance of  
11 family housing shall be the exclusive source of funds for  
12 repair and maintenance of all family housing units, includ-  
13 ing flag and general officer quarters: *Provided*, That not  
14 more than \$25,000 per unit may be spent annually for  
15 the maintenance and repair of any general or flag officer  
16 quarters without 30 days advance prior notification of the  
17 appropriate committees of Congress: *Provided further*,  
18 That the Under Secretary of Defense (Comptroller) is to  
19 report annually to the Committees on Appropriations all  
20 operations and maintenance expenditures, and all uses of  
21 funds pursuant to 10 U.S.C. 2601, for each individual flag  
22 and general officer quarters for the prior fiscal year: *Pro-*  
23 *vided further*, That nothing herein precludes the Secretary  
24 concerned from using funds pursuant to 10 U.S.C. 2601  
25 or similar authority.

