

Calendar No. 176

108TH CONGRESS
1ST SESSION

S. 1357

[Report No. 108–82]

Making appropriations for military construction, family housing, and base realignment and closure for the Department of Defense for the fiscal year ending September 30, 2004, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JUNE 26, 2003

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

A BILL

Making appropriations for military construction, family housing, and base realignment and closure for the Department of Defense for the fiscal year ending September 30, 2004, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That the following sums are appropriated, out of any
4 money in the Treasury not otherwise appropriated for
5 military construction, family housing, and base realign-
6 ment and closure functions administered by the Depart-

1 ment of Defense, for the fiscal year ending September 30,
2 2004, and for other purposes, namely:

3 MILITARY CONSTRUCTION, ARMY

4 (INCLUDING RESCISSION)

5 For acquisition, construction, installation, and equip-
6 ment of temporary or permanent public works, military
7 installations, facilities, and real property for the Army as
8 currently authorized by law, including personnel in the
9 Army Corps of Engineers and other personal services nec-
10 essary for the purposes of this appropriation, and for con-
11 struction and operation of facilities in support of the func-
12 tions of the Commander in Chief, \$1,255,155,000, to re-
13 main available until September 30, 2008: *Provided*, That
14 of this amount, not to exceed \$134,645,000, shall be avail-
15 able for study, planning, design, architect and engineer
16 services, and host nation support, as authorized by law,
17 unless the Secretary of Defense determines that additional
18 obligations are necessary for such purposes and notifies
19 the Committees on Appropriations of both Houses of Con-
20 gress of his determination and the reasons therefor: *Pro-*
21 *vided further*, That of the funds appropriated for “Military
22 Construction, Army” in previous Military Construction
23 Appropriation Acts, \$183,615,000 are rescinded.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, \$1,195,659,000, to remain available until September
10 30, 2008: *Provided*, That of this amount, not to exceed
11 \$77,283,000, shall be available for study, planning, de-
12 sign, architect and engineer services, as authorized by law,
13 unless 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” in previous Military Construction
19 Appropriation Acts, \$39,322,000 are rescinded.

20 MILITARY CONSTRUCTION, AIR FORCE

21 For acquisition, construction, installation, and equip-
22 ment of temporary or permanent public works, military
23 installations, facilities, and real property for the Air Force
24 as currently authorized by law, \$1,056,377,000, to remain
25 available until September 30, 2008: *Provided*, That of this

1 amount, not to exceed \$112,075,000, shall be available for
2 study, planning, design, architect and engineer services,
3 as authorized by law, unless the Secretary of Defense de-
4 termines that additional obligations are necessary for such
5 purposes and notifies the Committees on Appropriations
6 of both Houses of Congress of his determination and the
7 reasons therefor.

8 MILITARY CONSTRUCTION, DEFENSE-WIDE

9 (INCLUDING TRANSFER AND RESCISSIONS OF FUNDS)

10 For acquisition, construction, installation, and equip-
11 ment of temporary or permanent public works, installa-
12 tions, facilities, and real property for activities and agen-
13 cies of the Department of Defense (other than the military
14 departments), as currently authorized by law,
15 \$712,567,000, to remain available until September 30,
16 2008: *Provided*, That such amounts of this appropriation
17 as may be determined by the Secretary of Defense may
18 be transferred to such appropriations of the Department
19 of Defense available for military construction or family
20 housing as he may designate, to be merged with and to
21 be available for the same purposes, and for the same time
22 period, as the appropriation or fund to which transferred:
23 *Provided further*, That of the amount appropriated, not
24 to exceed \$70,881,000, shall be available for study, plan-
25 ning, design, architect and engineer services, as authorized

1 by law, unless the Secretary of Defense determines that
2 additional obligations are necessary for such purposes and
3 notifies the Committees on Appropriations of both Houses
4 of Congress of his determination and the reasons therefor:
5 *Provided further*, That of the funds appropriated for “Mili-
6 tary Construction, Defense-wide” in previous Military
7 Construction Appropriation Acts, \$32,680,000 are re-
8 scinded.

9 MILITARY CONSTRUCTION, ARMY NATIONAL GUARD

10 For construction, acquisition, expansion, rehabilita-
11 tion, and conversion of facilities for the training and ad-
12 ministration of the Army National Guard, and contribu-
13 tions therefor, as authorized by chapter 1803 of title 10,
14 United States Code, and Military Construction Authoriza-
15 tion Acts, \$304,085,000, to remain available until Sep-
16 tember 30, 2008.

17 MILITARY CONSTRUCTION, AIR NATIONAL GUARD

18 For construction, acquisition, expansion, rehabilita-
19 tion, and conversion of facilities for the training and ad-
20 ministration of the Air National Guard, and contributions
21 therefor, as authorized by chapter 1803 of title 10, United
22 States Code, and Military Construction Authorization
23 Acts, \$221,013,000, to remain available until September
24 30, 2008.

1 MILITARY CONSTRUCTION, ARMY RESERVE

2 For construction, acquisition, expansion, rehabilita-
3 tion, and conversion of facilities for the training and ad-
4 ministration of the Army Reserve as authorized by chapter
5 1803 of title 10, United States Code, and Military Con-
6 struction Authorization Acts, \$73,979,000, to remain
7 available until September 30, 2008.

8 MILITARY CONSTRUCTION, NAVAL RESERVE

9 For construction, acquisition, expansion, rehabilita-
10 tion, and conversion of facilities for the training and ad-
11 ministration of the reserve components of the Navy and
12 Marine Corps as authorized by chapter 1803 of title 10,
13 United States Code, and Military Construction Authoriza-
14 tion Acts, \$34,742,000, to remain available until Sep-
15 tember 30, 2008.

16 MILITARY CONSTRUCTION, AIR FORCE RESERVE

17 For construction, acquisition, expansion, rehabilita-
18 tion, and conversion of facilities for the training and ad-
19 ministration of the Air Force Reserve as authorized by
20 chapter 1803 of title 10, United States Code, and Military
21 Construction Authorization Acts, \$57,426,000, to remain
22 available until September 30, 2008.

1 NORTH ATLANTIC TREATY ORGANIZATION
2 SECURITY 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, \$169,300,000, 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 \$409,191,000, to remain available until September 30,
18 2008: *Provided*, That of the funds appropriated for “Fam-
19 ily Housing Construction, Army” in previous Military
20 Construction Appropriation Acts, \$52,300,000 are re-
21 scinded.

22 FAMILY HOUSING OPERATION AND MAINTENANCE,
23 ARMY

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

1 minor construction, principal and interest charges, and in-
2 surance premiums, as authorized by law, \$1,043,026,000,
3 to remain available until September 30, 2005.

4 FAMILY HOUSING CONSTRUCTION, NAVY AND MARINE
5 CORPS
6 (INCLUDING RESCISSION)

7 For expenses of family housing for the Navy and Ma-
8 rine Corps for construction, including acquisition, replace-
9 ment, addition, expansion, extension and alteration, as au-
10 thorized by law, \$184,193,000, to remain available until
11 September 30, 2008: *Provided*, That of the funds appro-
12 priated for “Family Housing Construction, Navy and Ma-
13 rine Corps” in previous Military Construction Appropria-
14 tion Acts, \$3,585,000 are rescinded.

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

17 For expenses of family housing for the Navy and Ma-
18 rine Corps for operation and maintenance, including debt
19 payment, leasing, minor construction, principal and inter-
20 est charges, and insurance premiums, as authorized by
21 law, \$852,778,000, to remain available until September
22 30, 2005.

1 FAMILY HOUSING OPERATION AND MAINTENANCE,
2 DEFENSE-WIDE

3 For expenses of family housing for the activities and
4 agencies of the Department of Defense (other than the
5 military departments) for operation and maintenance,
6 leasing, and minor construction, as authorized by law,
7 \$49,440,000, to remain available until September 30,
8 2005.

9 DEPARTMENT OF DEFENSE FAMILY HOUSING
10 IMPROVEMENT FUND

11 For the Department of Defense Family Housing Im-
12 provement Fund, \$300,000, to remain available until ex-
13 pended, for family housing initiatives undertaken pursu-
14 ant to section 2883 of title 10, United States Code, pro-
15 viding alternative means of acquiring and improving mili-
16 tary family housing, and supporting facilities.

17 BASE REALIGNMENT AND CLOSURE ACCOUNT

18 For deposit into the Department of Defense Base
19 Closure Account 1990 established by section 2906(a)(1)
20 of the Department of Defense Authorization Act, 1991
21 (Public Law 101-510), \$370,427,000, to remain available
22 until expended.

1 GENERAL PROVISIONS—MILITARY
2 CONSTRUCTION

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

10 SEC. 102. Funds appropriated to the Department of
11 Defense for construction shall be available for hire of pas-
12 senger motor vehicles.

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

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

24 SEC. 105. No part of the funds provided in Military
25 Construction Appropriations Acts shall be used for pur-

1 chase of land or land easements in excess of 100 percent
2 of the value as determined by the Army Corps of Engi-
3 neers or the Naval Facilities Engineering Command, ex-
4 cept: (1) where there is a determination of value by a Fed-
5 eral court; (2) purchases negotiated by the Attorney Gen-
6 eral or his designee; (3) where the estimated value is less
7 than \$25,000; or (4) as otherwise determined by the Sec-
8 retary of Defense to be in the public interest.

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

15 SEC. 107. None of the funds appropriated in Military
16 Construction Appropriations Acts for minor construction
17 may be used to transfer or relocate any activity from one
18 base or installation to another, without prior notification
19 to the Committees on Appropriations.

20 SEC. 108. No part of the funds appropriated in Mili-
21 tary Construction Appropriations Acts may be used for
22 the procurement of steel for any construction project or
23 activity for which American steel producers, fabricators,
24 and manufacturers have been denied the opportunity to
25 compete for such steel procurement.

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

5 SEC. 110. None of the funds appropriated in Military
6 Construction Appropriations Acts may be used to initiate
7 a new installation overseas without prior notification to
8 the Committees on Appropriations.

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

17 SEC. 112. None of the funds appropriated in Military
18 Construction Appropriations Acts for military construc-
19 tion in the United States territories and possessions in the
20 Pacific and on Kwajalein Atoll, or in countries bordering
21 the Arabian Sea, may be used to award any contract esti-
22 mated by the Government to exceed \$1,000,000 to a for-
23 eign contractor: *Provided*, That this section shall not be
24 applicable to contract awards for which the lowest respon-
25 sive and responsible bid of a United States contractor ex-

1 Act, 1991, to be merged with, and to be available for the
2 same purposes and the same time period as that account.

3 (TRANSFER OF FUNDS)

4 SEC. 121. Subject to 30 days prior notification to the
5 Committees on Appropriations, such additional amounts
6 as may be determined by the Secretary of Defense may
7 be transferred to the Department of Defense Family
8 Housing Improvement Fund from amounts appropriated
9 for construction in “Family Housing” accounts, to be
10 merged with and to be available for the same purposes
11 and for the same period of time as amounts appropriated
12 directly to the Fund: *Provided*, That appropriations made
13 available to the Fund shall be available to cover the costs,
14 as defined in section 502(5) of the Congressional Budget
15 Act of 1974, of direct loans or loan guarantees issued by
16 the Department of Defense pursuant to the provisions of
17 subchapter IV of chapter 169, title 10, United States
18 Code, pertaining to alternative means of acquiring and im-
19 proving military family housing and supporting facilities.

20 SEC. 122. None of the funds appropriated or made
21 available by this Act may be obligated for Partnership for
22 Peace Programs in the New Independent States of the
23 former Soviet Union.

24 SEC. 123. (a) Not later than 60 days before issuing
25 any solicitation for a contract with the private sector for
26 military family housing the Secretary of the military de-

1 department concerned shall submit to the congressional de-
2 fense committees the notice described in subsection (b).

3 (b)(1) A notice referred to in subsection (a) is a no-
4 tice of any guarantee (including the making of mortgage
5 or rental payments) proposed to be made by the Secretary
6 to the private party under the contract involved in the
7 event of—

8 (A) the closure or realignment of the installa-
9 tion for which housing is provided under the con-
10 tract;

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

13 (C) the extended deployment overseas of units
14 stationed at such installation.

15 (2) Each notice under this subsection shall specify
16 the nature of the guarantee involved and assess the extent
17 and likelihood, if any, of the liability of the Federal Gov-
18 ernment with respect to the guarantee.

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

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

1 the-fact notification shall be submitted if the limitation is
2 exceeded solely due to costs associated with environmental
3 remediation that could not be reasonably anticipated at
4 the time of the budget submission: *Provided further*, That
5 the Under Secretary of Defense (Comptroller) is to report
6 annually to the Committees on Appropriations all oper-
7 ations and maintenance expenditures for each individual
8 general or flag officer quarters for the prior fiscal year:
9 *Provided further*, That nothing herein precludes the Sec-
10 retary concerned from using funds pursuant to 10 U.S.C.
11 2601.

12 SEC. 126. None of the funds made available in this
13 Act may be transferred to any department, agency, or in-
14 strumentality of the United States Government, except
15 pursuant to a transfer made by, or transfer authority pro-
16 vided in, this Act or any other appropriation Act.

17 SEC. 127. No funds appropriated in this Act under
18 the heading “North Atlantic Treaty Organization Security
19 Investment Program”, and no funds appropriated for any
20 fiscal year before fiscal year 2004 for that program that
21 remain available for obligation, may be obligated or ex-
22 pended for the conduct of studies of missile defense.

23 SEC. 128. (a) COMMISSION ON REVIEW OF OVERSEAS
24 MILITARY FACILITY STRUCTURE OF THE UNITED
25 STATES.—(1) There is established the Commission on the

1 Review of the Overseas Military Facility Structure of the
2 United States (in this section referred to as the “Commis-
3 sion”).

4 (2)(A) The Commission shall be composed of 8 mem-
5 bers of whom—

6 (i) 2 shall be appointed by the Majority Leader
7 of the Senate;

8 (ii) 2 shall be appointed by the Minority Leader
9 of the Senate;

10 (iii) 2 shall be appointed by the Speaker of the
11 House of Representatives; and

12 (iv) 2 shall be appointed by the Minority Lead-
13 er of the House of Representatives.

14 (B) Individuals appointed to the Commission shall
15 have significant experience in the national security or for-
16 eign policy of the United States.

17 (C) Appointments of the members of the Commission
18 shall be made not later than 45 days after the date of
19 the enactment of this Act.

20 (3) Members shall be appointed for the life of the
21 Commission. Any vacancy in the Commission shall not af-
22 fect its powers, but shall be filled in the same manner as
23 the original appointment.

1 (4) Not later than 30 days after the date on which
2 all members of the Commission have been appointed, the
3 Commission shall hold its first meeting.

4 (5) The Commission shall meet at the call of the
5 Chairman.

6 (6) A majority of the members of the Commission
7 shall constitute a quorum, but a lesser number of members
8 may hold hearings.

9 (7) The Commission shall select a Chairman and Vice
10 Chairman from among its members.

11 (b) DUTIES.—(1) The Commission shall conduct a
12 thorough study of matters relating to the military facility
13 structure of the United States overseas.

14 (2) In conducting the study, the Commission shall—

15 (A) assess the number of forces required to be
16 forward based outside the United States;

17 (B) examine the current state of the military
18 facilities and training ranges of the United States
19 overseas for all permanent stations and deployed lo-
20 cations, including the condition of land and improve-
21 ments at such facilities and ranges and the avail-
22 ability of additional land, if required, for such facili-
23 ties and ranges;

24 (C) identify the amounts received by the United
25 States, whether in direct payments, in-kind contribu-

1 tions, or otherwise, from foreign countries by reason
2 of military facilities of the United States overseas;

3 (D) assess whether or not the current military
4 basing and training range structure of the United
5 States overseas is adequate to meet the current and
6 future mission of the Department of Defense, in-
7 cluding contingency, mobilization, and future force
8 requirements;

9 (E) assess the feasibility and advisability of the
10 closure or realignment of military facilities of the
11 United States overseas, or of the establishment of
12 new military facilities of the United States overseas;
13 and

14 (F) consider or assess any other issue relating
15 to military facilities of the United States overseas
16 that the Commission considers appropriate.

17 (3)(A) Not later than August 30, 2004, the Commis-
18 sion shall submit to the President and Congress a report
19 which shall contain a detailed statement of the findings
20 and conclusions of the Commission, together with its rec-
21 ommendations for such legislation and administrative ac-
22 tions as it considers appropriate.

23 (B) In addition to the matters specified in subpara-
24 graph (A), the report shall also include a proposal by the
25 Commission for an overseas basing strategy for the De-

1 partment of Defense in order to meet the current and fu-
2 ture mission of the Department.

3 (c) POWERS.—(1) The Commission may hold such
4 hearings, sit and act at such times and places, take such
5 testimony, and receive such evidence as the Commission
6 considers advisable to carry out this section.

7 (2) The Commission may secure directly from any
8 Federal department or agency such information as the
9 Commission considers necessary to carry out this section.
10 Upon request of the Chairman of the Commission, the
11 head of such department or agency shall furnish such in-
12 formation to the Commission.

13 (3) Upon request of the Commission, the Adminis-
14 trator of General Services shall provide to the Commis-
15 sion, on a reimbursable basis, the administrative support
16 necessary for the Commission to carry out its duties under
17 this section.

18 (4) The Commission may use the United States mails
19 in the same manner and under the same conditions as
20 other departments and agencies of the Federal Govern-
21 ment.

22 (5) The Commission may accept, use, and dispose of
23 gifts or donations of services or property.

24 (d) PERSONNEL MATTERS.—(1) Each member of the
25 Commission who is not an officer or employee of the Fed-

1 eral Government shall be compensated at a rate equal to
2 the daily equivalent of the annual rate of basic pay pre-
3 scribed for level IV of the Executive Schedule under sec-
4 tion 5315 of title 5, United States Code, for each day (in-
5 cluding travel time) during which such member is engaged
6 in the performance of the duties of the Commission under
7 this section. All members of the Commission who are offi-
8 cers or employees of the United States shall serve without
9 compensation in addition to that received for their services
10 as officers or employees of the United States.

11 (2)(A) Members of the Commission shall be allowed
12 travel expenses, including per diem in lieu of subsistence,
13 at rates authorized for employees of agencies under sub-
14 chapter I of chapter 57 of title 5, United States Code,
15 while away from their homes or regular places of business
16 in the performance of services for the Commission under
17 this section.

18 (B) Members and staff of the Commission may re-
19 ceive transportation on aircraft of the Military Airlift
20 Command to and from the United States, and overseas,
21 for purposes of the performance of the duties of the Com-
22 mission to the extent that such transportation will not
23 interfere with the requirements of military operations.

24 (3)(A) The Chairman of the Commission may, with-
25 out regard to the civil service laws and regulations, ap-

1 point and terminate an executive director and such other
2 additional personnel as may be necessary to enable the
3 Commission to perform its duties under this section. The
4 employment of an executive director shall be subject to
5 confirmation by the Commission.

6 (B) The Commission may employ a staff to assist the
7 Commission in carrying out its duties. The total number
8 of the staff of the Commission, including an executive di-
9 rector under subparagraph (A), may not exceed 12.

10 (C) The Chairman of the Commission may fix the
11 compensation of the executive director and other personnel
12 without regard to chapter 51 and subchapter III of chap-
13 ter 53 of title 5, United States Code, relating to classifica-
14 tion of positions and General Schedule pay rates, except
15 that the rate of pay for the executive director and other
16 personnel may not exceed the rate payable for level V of
17 the Executive Schedule under section 5316 of such title.

18 (4) Any employee of the Department of Defense, the
19 Department of State, or the General Accounting Office
20 may be detailed to the Commission without reimburse-
21 ment, and such detail shall be without interruption or loss
22 of civil service status or privilege.

23 (5) The Chairman of the Commission may procure
24 temporary and intermittent services under section 3109(b)
25 of title 5, United States Code, at rates for individuals

1 which do not exceed the daily equivalent of the annual rate
2 of basic pay prescribed for level V of the Executive Sched-
3 ule under section 5316 of such title.

4 (e) SECURITY.—(1) Members and staff of the Com-
5 mission, and any experts and consultants to the Commis-
6 sion, shall possess security clearances appropriate for their
7 duties with the Commission under this section.

8 (2) The Secretary of Defense shall assume responsi-
9 bility for the handling and disposition of any information
10 relating to the national security of the United States that
11 is received, considered, or used by the Commission under
12 this section.

13 (f) TERMINATION.—The Commission shall terminate
14 45 days after the date on which the Commission submits
15 its report under subsection (b).

16 (g) FUNDING.—(1) Of the amount appropriated by
17 this Act, \$3,000,000 shall be available to the Commission
18 to carry out this section.

19 (2) The amount made available by paragraph (1)
20 shall remain available, without fiscal year limitation, until
21 September 2005.

22 This Act may be cited as the “Military Construction
23 Appropriations Act, 2004”.

Calendar No. 176

108TH CONGRESS
1ST SESSION

S. 1357

[Report No. 108-82]

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, 2004, and for other purposes.

JUNE 26, 2003

Read twice and placed on the calendar