Calendar No. 448

104TH CONGRESS H. R. 3517

[Report No. 104–287]

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, 1997, and for other purposes.

JUNE 20, 1996

Reported with amendments

Calendar No. 448 H.R. 3517

104th CONGRESS 2d Session

[Report No. 104-287]

IN THE SENATE OF THE UNITED STATES

JUNE 3, 1996

Received; read twice and referred to the Committee on Appropriations

JUNE 20, 1996 Reported by Mr. BURNS, with amendments [Omit the part struck through and insert the part printed in italic]

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, 1997, 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 the 5 fiscal year ending September 30, 1997, for military construction, family housing, and base realignment and clo-6 7 sure functions administered by the Department of De-8 fense, and for other purposes, namely:

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MILITARY CONSTRUCTION, ARMY

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(INCLUDING RESCISSIONS)

3 For acquisition, construction, installation, and equip-4 ment of temporary or permanent public works, military 5 installations, facilities, and real property for the Army as currently authorized by law, including personnel in the 6 7 Army Corps of Engineers and other personal services nec-8 essary for the purposes of this appropriation, and for con-9 struction and operation of facilities in support of the func-10 tions of the Commander in Chief, \$603,584,000 \$448,973,000, to remain available until September 30, 11 12 2001: Provided, That of this amount, not to exceed 13 \$54,384,000 \$37,323,000 shall be available for study, planning, design, architect and engineer services, and host 14 15 nation support, as authorized by law, unless the Secretary of Defense determines that additional obligations are nec-16 17 essary for such purposes and notifies the Committees on 18 Appropriations of both Houses of Congress of his determination and the reasons therefor: *Provided further*, That 19 of the funds appropriated for "Military Construction, 20 21 Army" under Public Law 103–110, \$2,028,000 is hereby 22 rescinded.

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MILITARY CONSTRUCTION, NAVY

(INCLUDING RESCISSIONS)

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 currently authorized by law, including personnel in the 6 7 Naval Facilities Engineering Command and other per-8 sonal services necessary for the purposes of this appropria-9 tion, \$724,476,000 \$642,484,000, to remain available until 10 September 30, 2001: *Provided*, That of this amount, not to exceed \$50,959,000 \$53,709,000 shall be available for 11 study, planning, design, architect and engineer services, 12 13 as authorized by law, unless the Secretary of Defense determines that additional obligations are necessary for such 14 15 purposes and notifies the Committees on Appropriations of both Houses of Congress of his determination and the 16 reasons therefor: Provided further, That of the funds ap-17 propriated for "Military Construction, Navy" under Public 18 Law 102–136, \$6,900,000 is hereby resemded: Provided 19 *further*. That of the funds appropriated for "Military Con-20 21 struction, Navy" under Public Law 102–380, \$2,800,000 22 \$9,000,000 is hereby rescinded: Provided further, That of 23 the funds appropriated for "Military Construction, Navy" under Public Law 103–110, \$2,300,000 is hereby re-24 scinded. 25

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MILITARY CONSTRUCTION, AIR FORCE

(INCLUDING RESCISSIONS)

3 For acquisition, construction, installation, and equip-4 ment of temporary or permanent public works, military 5 installations, facilities, and real property for the Air Force 6 authorized by as currently law. \$678,914,000 7 \$704,689,000, to remain available until September 30, 8 2001: Provided, That of this amount, not to exceed 9 \$47,387,000 \$29,797,000 shall be available for study, 10 planning, design, architect and engineer services, as authorized by law, unless the Secretary of Defense deter-11 12 mines that additional obligations are necessary for such 13 purposes and notifies the Committees on Appropriations of both Houses of Congress of his determination and the 14 15 reasons therefor: Provided further, That of the funds appropriated for "Military Construction, Air Force" under Pub-16 17 *lic Law 103–307, \$2,100,000 is hereby rescinded.*

18 MILITARY CONSTRUCTION, DEFENSE-WIDE

19 (INCLUDING TRANSFER OF FUNDS AND RESCISSIONS)

20 For acquisition, construction, installation, and equip-21 ment of temporary or permanent public works, installa-22 tions, facilities, and real property for activities and agen-23 cies of the Department of Defense (other than the military 24 departments), as currently authorized by law. \$772,345,000 \$771,758,000, to remain available until Sep-25

tember 30, 2001: *Provided*, That such amounts of this ap-1 propriation as may be determined by the Secretary of De-2 3 fense may be transferred to such appropriations of the De-4 partment of Defense available for military construction or 5 family housing as he may designate, to be merged with and to be available for the same purposes, and for the 6 7 same time period, as the appropriation or fund to which 8 transferred: *Provided further*, That of the amount appro-9 priated, not to exceed \$12,239,000 \$17,139,000 shall be 10 available for study, planning, design, architect and engineer services, as authorized by law, unless the Secretary 11 of Defense determines that additional obligations are nec-12 13 essary for such purposes and notifies the Committees on Appropriations of both Houses of Congress of his deter-14 15 mination and the reasons therefor: Provided further, That of the funds appropriated for "Military Construction, De-16 fense-wide" under Public Law 104–32, \$7,000,000 is hereby 17 rescinded. 18

19 Department of Defense Military Unaccompanied

20 Housing Improvement Fund

21 (INCLUDING TRANSFER OF FUNDS)

For the Department of Defense Military Unaccompanied Housing Improvement Fund, \$10,000,000, to remain available until expended: *Provided*, That subject to thirty days prior notification to the Committees on Appro-

priations, such additional amounts as may be determined 1 2 by the Secretary of Defense may be transferred to the 3 Fund from amounts appropriated in this Act for the ac-4 quisition or construction of military unaccompanied housing in "Military Construction" accounts, to be merged 5 with and to be made available for the same purposes and 6 7 for the same period of time as amounts appropriated di-8 rectly to the Fund: Provided further, That appropriations 9 made available for the Fund in this Act shall be available to cover the costs, as defined in section 502(5) of the Con-10 gressional Budget Act of 1974, of direct loans and loan 11 guarantees issued by the Department of Defense pursuant 12 to the provisions of subchapter IV of chapter 169 of title 13 10, United States Code, pertaining to alternative means 14 15 of acquiring and improving military unaccompanied housing and ancillary supporting facilities. 16

17 MILITARY CONSTRUCTION, ARMY NATIONAL GUARD

For construction, acquisition, expansion, rehabilita-19 tion, and conversion of facilities for the training and ad-20 ministration of the Army National Guard, and contribu-21 tions therefor, as authorized by chapter 133 of title 10, 22 United States Code, and military construction authoriza-23 tion Acts, \$41,316,000 \$142,948,000, to remain available 24 until September 30, 2001. 1 MILITARY CONSTRUCTION, AIR NATIONAL GUARD 2 For construction, acquisition, expansion, rehabilita-3 tion, and conversion of facilities for the training and ad-4 ministration of the Air National Guard, and contributions 5 therefor, as authorized by chapter 133 of title 10, United States Code, and military construction authorization Acts, 6 7 \$118,394,000 \$224,444,000, to remain available until Sep-8 tember 30, 2001.

9 MILITARY CONSTRUCTION, ARMY RESERVE

For construction, acquisition, expansion, rehabilita-11 tion, and conversion of facilities for the training and ad-12 ministration of the Army Reserve as authorized by chapter 13 133 of title 10, United States Code, and military construc-14 tion authorization Acts, \$50,159,000 \$75,474,000, to re-15 main available until September 30, 2001.

16 MILITARY CONSTRUCTION, NAVAL RESERVE

For construction, acquisition, expansion, rehabilita-18 tion, and conversion of facilities for the training and ad-19 ministration of the reserve components of the Navy and 20 Marine Corps as authorized by chapter 133 of title 10, 21 United States Code, and military construction authoriza-22 tion Acts, \$33,169,000 \$49,883,000, to remain available 23 until September 30, 2001. 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 133 of title 10, United States Code, and military construction authorization Acts, \$51,655,000 \$67,805,000, to remain available until September 30, 2001.

8 NORTH ATLANTIC TREATY ORGANIZATION 9 SECURITY INVESTMENT PROGRAM

10 For the United States share of the cost of the North Atlantic Treaty Organization Security Investment Pro-11 12 gram for the acquisition and construction of military fa-13 cilities and installations (including international military headquarters) and for related expenses for the collective 14 15 defense of the North Atlantic Treaty Area as authorized in military construction authorization Acts and section 16 17 2806 of title 10, United States Code, \$177,000,000 18 \$172,000,000, to remain available until expended.

19 FAMILY HOUSING, ARMY

For expenses of family housing for the Army for constrution, including acquisition, replacement, addition, expansion, extension and alteration and for operation and maintenance, including debt payment, leasing, minor construction, principal and interest charges, and insurance premiums, as authorized by law, as follows: for Construc-

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tion, \$176,603,000 \$189,319,000, to remain available until
 September 30, 2001; for Operation and Maintenance, and
 for debt payment, \$1,257,466,000 \$1,212,466,000; in all
 \$1,434,069,000 \$1,401,785,000.

5 FAMILY HOUSING, NAVY AND MARINE CORPS

6 For expenses of family housing for the Navy and Ma-7 rine Corps for construction, including acquisition, replace-8 ment, addition, expansion, extension and alteration and 9 for operation and maintenance, including debt payment, 10 leasing. minor construction, principal and interest charges, and insurance premiums, as authorized by law, 11 12 as follows: for Construction, \$532,456,000 \$418,326,000, to remain available until September 30, 2001; for Oper-13 14 ation and for and Maintenance, debt payment, 15 $\frac{1,058,241,000}{1,014,241,000}$; in all $\frac{1,590,697,000}{1,014,241,000}$ \$1,432,567,000. 16

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FAMILY HOUSING, AIR FORCE

18 For expenses of family housing for the Air Force for 19 construction, including acquisition, replacement, addition, 20 expansion, extension and alteration and for operation and 21 maintenance, including debt payment, leasing, minor con-22 struction, principal and interest charges, and insurance 23 premiums, as authorized by law, as follows: for Construction, \$304,068,000 \$291,464,000, to remain available until 24 25 September 30, 2001; for Operation and Maintenance, and for debt payment, \$\$\\$840,474,000 \$\$829,474,000; in all
 \$1,144,542,000 \$1,120,938,000.

3 FAMILY HOUSING, DEFENSE-WIDE

4 For expenses of family housing for the activities and 5 agencies of the Department of Defense (other than the military departments) for construction, including acquisi-6 7 tion, replacement, addition, expansion, extension and al-8 teration, and for operation and maintenance, leasing, and 9 minor construction, as authorized by law, as follows: for Construction, \$4,371,000, to remain available until Sep-10 tember 30, 2001; for Operation and Maintenance, 11 12 \$30,963,000; in all \$35,334,000.

13 DEPARTMENT OF DEFENSE FAMILY HOUSING
 14 IMPROVEMENT FUND

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(INCLUDING TRANSFER OF FUNDS)

16 For the Department of Defense Family Housing Im-17 provement Fund, \$35,000,000 *\$20,000,000*, to remain 18 available until expended September 30, 2001: Provided, 19 That, subject to thirty days prior notification to the Com-20mittees on Appropriations, such additional amounts as 21 may be determined by the Secretary of Defense may be 22 transferred to the Fund from amounts appropriated in 23 this Act for construction in "Family Housing" accounts, 24 to be merged with and to be available for the same pur-25 poses and for the same period of time as amounts appro-

priated directly to the Fund: *Provided further*, That appro-1 2 priations made available to the Fund in this Act shall be 3 available to cover the costs, as defined in section 502(5)4 of the Congressional Budget Act of 1974, of direct loans 5 or loan guarantees issued by the Department of Defense pursuant to the provisions of subchapter IV of Chapter 6 7 169, title 10, United States Code, pertaining to alternative 8 means of acquiring and improving military family housing 9 and supporting facilities.

10 Homeowners Assistance Fund, Defense

For use in the Homeowners Assistance Fund established by section 1013(d) of the Demonstration Cities and Metropolitan Development Act of 1966, as amended (42 U.S.C. 3374), \$36,181,000, to remain available until expended.

16 BASE REALIGNMENT AND CLOSURE ACCOUNT, PART II 17 For deposit into the Department of Defense Base 18 Closure Account 1990 established by section 2906(a)(1)19 of the Department of Defense Authorization Act, 1991 (Public Law 101–510), \$352,800,000, to remain available 20 21 until Provided. That expended: not more than 22 \$223,789,000 of the funds appropriated herein shall be 23 available solely for environmental restoration, unless the 24 Secretary of Defense determines that additional obliga-25 tions are necessary for such purposes and notifies the

Committees on Appropriations of both Houses of Congress
 of his determination and the reasons therefor.

3 Base Realignment and Closure Account, Part III

4 For deposit into the Department of Defense Base 5 Closure Account 1990 established by section 2906(a)(1)of the Department of Defense Authorization Act, 1991 6 (Public Law 101–510), \$971,925,000, to remain available 7 8 until expended: Provided, That not more than 9 \$351,967,000 of the funds appropriated herein shall be 10 available solely for environmental restoration, unless the Secretary of Defense determines that additional obliga-11 tions are necessary for such purposes and notifies the 12 13 Committees on Appropriations of both Houses of Congress of his determination and the reasons therefor. 14

15 BASE REALIGNMENT AND CLOSURE ACCOUNT, PART IV

16 For deposit into the Department of Defense Base 17 Closure Account 1990 established by section 2906(a)(1)of the Department of Defense Authorization Act, 1991 18 (Public Law 101–510), \$1,182,749,000, to remain avail-19 20 able until expended: *Provided*, That not more than 21 \$200,841,000 of the funds appropriated herein shall be 22 available solely for environmental restoration, unless the 23 Secretary of Defense determines that additional obliga-24 tions are necessary for such purposes and notifies the

Committees on Appropriations of both Houses of Congress
 of his determination and the reasons therefor.

3 GENERAL PROVISIONS

4 SEC. 101. None of the funds appropriated in Military 5 Construction Appropriations Acts shall be expended for payments under a cost-plus-a-fixed-fee contract for work, 6 7 where cost estimates exceed \$25,000, to be performed 8 within the United States, except Alaska, without the spe-9 cific approval in writing of the Secretary of Defense set-10 ting forth the reasons therefor: *Provided*, That the foregoing shall not apply in the case of contracts for environ-11 12 mental restoration at an installation that is being closed 13 or realigned where payments are made from a Base Realignment and Closure Account. 14

15 SEC. 102. Funds appropriated to the Department of
16 Defense for construction shall be available for hire of pas17 senger motor vehicles.

18 SEC. 103. Funds appropriated to the Department of 19 Defense for construction may be used for advances to the 20 Federal Highway Administration, Department of Trans-21 portation, for the construction of access roads as author-22 ized by section 210 of title 23, United States Code, when 23 projects authorized therein are certified as important to 24 the national defense by the Secretary of Defense. 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 appropria tions have not been made.

5 SEC. 105. No part of the funds provided in Military 6 Construction Appropriations Acts shall be used for pur-7 chase of land or land easements in excess of 100 per cen-8 tum of the value as determined by the Army Corps of En-9 gineers or the Naval Facilities Engineering Command, ex-10 cept (a) where there is a determination of value by a Fed-11 eral court, or (b) purchases negotiated by the Attorney 12 General or his designee, or (c) where the estimated value is less than \$25,000, or (d) as otherwise determined by 13 the Secretary of Defense to be in the public interest. 14

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

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.

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

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.

15 SEC. 111. None of the funds appropriated in Military Construction Appropriations Acts may be obligated for ar-16 17 chitect and engineer contracts estimated by the Government to exceed \$500,000 for projects to be accomplished 18 in Japan, in any NATO member country, or in countries 19 bordering the Arabian Gulf, unless such contracts are 20 21 awarded to United States firms or United States firms 22 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 1 2 the Arabian Gulf, may be used to award any contract estimated by the Government to exceed \$1,000,000 to a for-3 4 eign contractor: *Provided*, That this section shall not be 5 applicable to contract awards for which the lowest responsive and responsible bid of a United States contractor ex-6 7 ceeds the lowest responsive and responsible bid of a for-8 eign contractor by greater than 20 per centum.

9 SEC. 113. The Secretary of Defense is to inform the 10 appropriate Committees of Congress, including the Com-11 mittees on Appropriations, of the plans and scope of any 12 proposed military exercise involving United States person-13 nel thirty days prior to its occurring, if amounts expended 14 for construction, either temporary or permanent, are an-15 ticipated to exceed \$100,000.

16 SEC. 114. Not more than 20 per centum of the appro-17 priations in Military Construction Appropriations Acts 18 which are limited for obligation during the current fiscal 19 year shall be obligated during the last two months of the 20 fiscal year.

21 (TRANS

(TRANSFER OF FUNDS)

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. 1 SEC. 116. For military construction or family housing 2 projects that are being completed with funds otherwise ex-3 pired or lapsed for obligation, expired or lapsed funds may 4 be used to pay the cost of associated supervision, inspec-5 tion, overhead, engineering and design on those projects 6 and on subsequent claims, if any.

7 SEC. 117. Notwithstanding any other provision of 8 law, any funds appropriated to a military department or 9 defense agency for the construction of military projects 10 may be obligated for a military construction project or contract, or for any portion of such a project or contract, 11 at any time before the end of the fourth fiscal year after 12 13 the fiscal year for which funds for such project were appropriated if the funds obligated for such project (1) are 14 15 obligated from funds available for military construction projects, and (2) do not exceed the amount appropriated 16 for such project, plus any amount by which the cost of 17 18 such project is increased pursuant to law.

19 (TRANSFER OF FUNDS)

SEC. 118. During the five-year period after appropriations available to the Department of Defense for military construction and family housing operation and maintenance and construction have expired for obligation, upon a determination that such appropriations will not be necessary for the liquidation of obligations or for making authorized adjustments to such appropriations for obliga-**HR 3517 RS** 1 tions incurred during the period of availability of such ap2 propriations, unobligated balances of such appropriations
3 may be transferred into the appropriation "Foreign Cur4 rency Fluctuations, Construction, Defense" to be merged
5 with and to be available for the same time period and for
6 the same purposes as the appropriation to which trans7 ferred.

8 SEC. 119. The Secretary of Defense is to provide the 9 Committees on Appropriations of the Senate and the 10 House of Representatives with an annual report by February 15, containing details of the specific actions pro-11 12 posed to be taken by the Department of Defense during 13 the current fiscal year to encourage other member nations of the North Atlantic Treaty Organization, Japan, Korea, 14 15 and United States allies bordering the Arabian Gulf to assume a greater share of the common defense burden of 16 17 such nations and the United States.

18 (TRANSFER OF FUNDS)

19 SEC. 120. During the current fiscal year, in addition to any other transfer authority available to the Depart-20 21 ment of Defense, proceeds deposited to the Department 22 of Defense Base Closure Account established by section 207(a)(1) of the Defense Authorization Amendments and 23 Base Closure and Realignment Act (Public Law 100–526) 24 pursuant to section 207(a)(2)(C) of such Act, may be 25 transferred the established by 26 to account section HR 3517 RS

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.

4 SEC. 121. No funds appropriated pursuant to this 5 Act may be expended by an entity unless the entity agrees 6 that in expending the assistance the entity will comply 7 with sections 2 through 4 of the Act of March 3, 1933 8 (41 U.S.C. 10a–10c, popularly known as the "Buy Amer-9 ican Act").

10 SEC. 122. (a) In the case of any equipment or prod-11 uets that may be authorized to be purchased with financial 12 assistance provided under this Act, it is the sense of the 13 Congress that entities receiving such assistance should, in 14 expending the assistance, purchase only American-made 15 equipment and products.

(b) In providing financial assistance under this Act,
the Secretary of the Treasury shall provide to each recipient of the assistance a notice describing the statement
made in subsection (a) by the Congress.

20 SEC. 121. The National Guard Bureau shall annually 21 prepare a future years defense plan based on the require-22 ment and priorities of the National Guard: Provided, That 23 this plan shall be presented to the committees of Congress 24 concurrent with the President's budget submission for each 25 fiscal year. SEC. 122. No funds from the Base Realignment and
 Closure accounts shall be used to pay for fines or penalties
 resulting from violations of any law pertaining to the envi ronment.

(TRANSFER OF FUNDS)

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6 SEC. 123. During the current fiscal year, in addition to any other transfer authority available to the Depart-7 8 ment of Defense, amounts may be transferred from the 9 account established by section 2906(a)(1) of the Depart-10 ment of Defense Authorization Act, 1991, to the fund established by section 1013(d) of the Demonstration Cities 11 and Metropolitan Development Act of 1966 (42 U.S.C. 12 13 3374) to pay for expenses associated with the Homeowners Assistance Program. Any amounts transferred 14 15 shall be merged with and be available for the same pur-16 poses and for the same time period as the fund to which transferred. 17

18 This Act may be cited as the "Military Construction19 Appropriations Act, 1997".

Passed the House of Representatives May 30, 1996. Attest: ROBIN H. CARLE,

nor

Clerk.

By Linda Nave, Deputy Clerk.