

Calendar No. 637108TH CONGRESS
2^D SESSION**S. 2674****[Report No. 108-309]**

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.

IN THE SENATE OF THE UNITED STATES

JULY 15, 2004

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, 2005, 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 2005, and for other purposes, namely:

3 MILITARY CONSTRUCTION, ARMY

4 For acquisition, construction, installation, and equip-
5 ment of temporary or permanent public works, military
6 installations, facilities, and real property for the Army as
7 currently authorized by law, including personnel in the
8 Army Corps of Engineers and other personal services nec-
9 essary for the purposes of this appropriation, and for con-
10 struction and operation of facilities in support of the func-
11 tions of the Commander in Chief, \$1,977,166,000, to re-
12 main available until September 30, 2009: *Provided*, That
13 of this amount, not to exceed \$187,216,000 shall be avail-
14 able for study, planning, design, architect and engineer
15 services, and host nation support, as authorized by law,
16 unless the Secretary of Defense determines that additional
17 obligations are necessary for such purposes and notifies
18 the Committees on Appropriations of both Houses of Con-
19 gress of his determination and the reasons therefor.

20 MILITARY CONSTRUCTION, NAVY

21 For acquisition, construction, installation, and equip-
22 ment of temporary or permanent public works, naval in-
23 stallations, facilities, and real property for the Navy as
24 currently authorized by law, including personnel in the
25 Naval Facilities Engineering Command and other per-

1 sonal services necessary for the purposes of this appropria-
2 tion, \$1,016,315,000, to remain available until September
3 30, 2009: *Provided*, That of this amount, not to exceed
4 \$110,277,000 shall be available for study, planning, de-
5 sign, architect and engineer services, as authorized by law,
6 unless the Secretary of Defense determines that additional
7 obligations are necessary for such purposes and notifies
8 the Committees on Appropriations of both Houses of Con-
9 gress of his determination and the reasons therefor.

10 MILITARY CONSTRUCTION, AIR FORCE

11 For acquisition, construction, installation, and equip-
12 ment of temporary or permanent public works, military
13 installations, facilities, and real property for the Air Force
14 as currently authorized by law, \$841,131,000, to remain
15 available until September 30, 2009: *Provided*, That of this
16 amount, not to exceed \$180,507,000 shall be available for
17 study, planning, design, architect and engineer services,
18 as authorized by law, unless the Secretary of Defense de-
19 termines that additional obligations are necessary for such
20 purposes and notifies the Committees on Appropriations
21 of both Houses of Congress of his determination and the
22 reasons therefor.

23 MILITARY CONSTRUCTION, DEFENSE-WIDE

24 For acquisition, construction, installation, and equip-
25 ment of temporary or permanent public works, installa-

1 tions, facilities, and real property for activities and agen-
2 cies of the Department of Defense (other than the military
3 departments), as currently authorized by law,
4 \$696,491,000, to remain available until September 30,
5 2009: *Provided*, That such amounts of this appropriation
6 as may be determined by the Secretary of Defense may
7 be transferred to such appropriations of the Department
8 of Defense available for military construction or family
9 housing as he may designate, to be merged with and to
10 be available for the same purposes, and for the same time
11 period, as the appropriation or fund to which transferred:
12 *Provided further*, That of the amount appropriated, not
13 to exceed \$66,336,000 shall be available for study, plan-
14 ning, design, architect and engineer services, as authorized
15 by law, unless the Secretary of Defense determines that
16 additional obligations are necessary for such purposes and
17 notifies the Committees on Appropriations of both Houses
18 of Congress of his determination and the reasons therefor.

19 MILITARY CONSTRUCTION, ARMY NATIONAL GUARD

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

1 tion Acts, \$381,765,000, to remain available until Sep-
2 tember 30, 2009.

3 MILITARY CONSTRUCTION, AIR NATIONAL GUARD

4 For construction, acquisition, expansion, rehabilita-
5 tion, and conversion of facilities for the training and ad-
6 ministration of the Air National Guard, and contributions
7 therefor, as authorized by chapter 1803 of title 10, United
8 States Code, and Military Construction Authorization
9 Acts, \$231,083,000, to remain available until September
10 30, 2009.

11 MILITARY CONSTRUCTION, ARMY RESERVE

12 For construction, acquisition, expansion, rehabilita-
13 tion, and conversion of facilities for the training and ad-
14 ministration of the Army Reserve as authorized by chapter
15 1803 of title 10, United States Code, and Military Con-
16 struction Authorization Acts, \$66,325,000, to remain
17 available until September 30, 2009.

18 MILITARY CONSTRUCTION, NAVAL RESERVE

19 For construction, acquisition, expansion, rehabilita-
20 tion, and conversion of facilities for the training and ad-
21 ministration of the reserve components of the Navy and
22 Marine Corps as authorized by chapter 1803 of title 10,
23 United States Code, and Military Construction Authoriza-
24 tion Acts, \$33,735,000, to remain available until Sep-
25 tember 30, 2009.

1 \$846,959,000, to remain available until September 30,
2 2009.

3 FAMILY HOUSING OPERATION AND MAINTENANCE, AIR
4 FORCE

5 For expenses of family housing for the Air Force for
6 operation and maintenance, including debt payment, leas-
7 ing, minor construction, principal and interest charges,
8 and insurance premiums, as authorized by law,
9 \$856,114,000.

10 FAMILY HOUSING CONSTRUCTION, DEFENSE-WIDE

11 For expenses of family housing for the activities and
12 agencies of the Department of Defense (other than the
13 military departments) for construction, including acquisi-
14 tion, replacement, addition, expansion, extension and al-
15 teration, as authorized by law, \$49,000, to remain avail-
16 able until September 30, 2009.

17 FAMILY HOUSING OPERATION AND MAINTENANCE,
18 DEFENSE-WIDE

19 For expenses of family housing for the activities and
20 agencies of the Department of Defense (other than the
21 military departments) for operation and maintenance,
22 leasing, and minor construction, as authorized by law,
23 \$49,575,000.

1 DEPARTMENT OF DEFENSE FAMILY HOUSING
2 IMPROVEMENT FUND

3 For the Department of Defense Family Housing Im-
4 provement Fund, \$2,500,000, to remain available until ex-
5 pended, for family housing initiatives undertaken pursu-
6 ant to section 2883 of title 10, United States Code, pro-
7 viding alternative means of acquiring and improving mili-
8 tary family housing and supporting facilities.

9 CHEMICAL DEMILITARIZATION CONSTRUCTION,
10 DEFENSE

11 For expenses of construction, not otherwise provided
12 for, necessary for the destruction of the United States
13 stockpile of lethal chemical agents and munitions in ac-
14 cordance with the provisions of section 1412 of the De-
15 partment of Defense Authorization Act, 1986 (50 U.S.C.
16 1521), and for the destruction of other chemical warfare
17 materials that are not in the chemical weapon stockpile,
18 as currently authorized by law, \$81,886,000, to remain
19 available until September 30, 2009: *Provided*, That such
20 amounts of this appropriation as may be determined by
21 the Secretary of Defense may be transferred to such ap-
22 propriations of the Department of Defense available for
23 military construction as he may designate, to be merged
24 with and to be available for the same purposes, and for

1 the same time period, as the appropriation to which trans-
2 ferred.

3 BASE REALIGNMENT AND CLOSURE ACCOUNT

4 For deposit into the Department of Defense Base
5 Closure Account 1990 established by section 2906(a)(1)
6 of the Department of Defense Authorization Act, 1991
7 (Public Law 101–510), \$246,116,000, to remain available
8 until expended.

9 GENERAL PROVISIONS

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

17 SEC. 102. Funds appropriated to the Department of
18 Defense for construction shall be available for hire of pas-
19 senger motor vehicles.

20 SEC. 103. Funds appropriated to the Department of
21 Defense for construction may be used for advances to the
22 Federal Highway Administration, Department of Trans-
23 portation, for the construction of access roads as author-
24 ized by section 210 of title 23, United States Code, when

1 projects authorized therein are certified as important to
2 the national defense by the Secretary of Defense.

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

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

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

23 SEC. 107. None of the funds appropriated in Military
24 Construction Appropriations Acts for minor construction
25 may be used to transfer or relocate any activity from one

1 base or installation to another, without prior notification
2 to the Committees on Appropriations.

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

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

13 SEC. 110. None of the funds appropriated in Military
14 Construction Appropriations Acts may be used to initiate
15 a new installation overseas without prior notification to
16 the Committees on Appropriations.

17 SEC. 111. None of the funds appropriated in Military
18 Construction Appropriations Acts may be obligated for ar-
19 chitect and engineer contracts estimated by the Govern-
20 ment to exceed \$500,000 for projects to be accomplished
21 in Japan, in any NATO member country, or in countries
22 bordering the Arabian Sea, unless such contracts are
23 awarded to United States firms or United States firms
24 in joint venture with host nation firms.

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

16 SEC. 113. The Secretary of Defense is to inform the
17 appropriate committees of Congress, including the Com-
18 mittees on Appropriations, of the plans and scope of any
19 proposed military exercise involving United States per-
20 sonnel 30 days prior to its occurring, if amounts expended
21 for construction, either temporary or permanent, are an-
22 ticipated to exceed \$100,000.

23 SEC. 114. Not more than 20 percent of the appro-
24 priations in Military Construction Appropriations Acts
25 which are limited for obligation during the current fiscal

1 year shall be obligated during the last 2 months of the
2 fiscal year.

3 SEC. 115. Funds appropriated to the Department of
4 Defense for construction in prior years shall be available
5 for construction authorized for each such military depart-
6 ment by the authorizations enacted into law during the
7 current session of Congress.

8 SEC. 116. For military construction or family housing
9 projects that are being completed with funds otherwise ex-
10 pired or lapsed for obligation, expired or lapsed funds may
11 be used to pay the cost of associated supervision, inspec-
12 tion, overhead, engineering and design on those projects
13 and on subsequent claims, if any.

14 SEC. 117. Notwithstanding any other provision of
15 law, any funds appropriated to a military department or
16 defense agency for the construction of military projects
17 may be obligated for a military construction project or
18 contract, or for any portion of such a project or contract,
19 at any time before the end of the fourth fiscal year after
20 the fiscal year for which funds for such project were ap-
21 propriated if the funds obligated for such project: (1) are
22 obligated from funds available for military construction
23 projects; and (2) do not exceed the amount appropriated
24 for such project, plus any amount by which the cost of
25 such project is increased pursuant to law.

1 SEC. 118. The Secretary of Defense is to provide the
2 Committees on Appropriations of the Senate and the
3 House of Representatives with an annual report by Feb-
4 ruary 15, containing details of the specific actions pro-
5 posed to be taken by the Department of Defense during
6 the current fiscal year to encourage other member nations
7 of the North Atlantic Treaty Organization, Japan, Korea,
8 and United States allies bordering the Arabian Sea to as-
9 sume a greater share of the common defense burden of
10 such nations and the United States.

11 SEC. 119. During the current fiscal year, in addition
12 to any other transfer authority available to the Depart-
13 ment of Defense, proceeds deposited to the Department
14 of Defense Base Closure Account established by section
15 207(a)(1) of the Defense Authorization Amendments and
16 Base Closure and Realignment Act (Public Law 100–526)
17 pursuant to section 207(a)(2)(C) of such Act, may be
18 transferred to the account established by section
19 2906(a)(1) of the Department of Defense Authorization
20 Act, 1991, to be merged with, and to be available for the
21 same purposes and the same time period as that account.

22 SEC. 120. Subject to 30 days prior notification to the
23 Committees on Appropriations, such additional amounts
24 as may be determined by the Secretary of Defense may
25 be transferred to (1) the Department of Defense Family

1 Housing Improvement Fund from amounts appropriated
2 for construction in “Family Housing” accounts, to be
3 merged with and to be available for the same purposes
4 and for the same period of time as amounts appropriated
5 directly to the Fund, or (2) the Department of Defense
6 Military Unaccompanied Housing Improvement Fund
7 from amounts appropriated for construction of military
8 unaccompanied housing in “Military Construction” ac-
9 counts, to be merged with and to be available for the same
10 purposes and for the same period of time as amounts ap-
11 propriated directly to the Fund: *Provided*, That appropria-
12 tions made available to the Funds shall be available to
13 cover the costs, as defined in section 502(5) of the Con-
14 gressional Budget Act of 1974, of direct loans or loan
15 guarantees issued by the Department of Defense pursuant
16 to the provisions of subchapter IV of chapter 169, title
17 10, United States Code, pertaining to alternative means
18 of acquiring and improving military family housing, mili-
19 tary unaccompanied housing, and supporting facilities.

20 SEC. 121. 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. 122. (a) Not later than 60 days before issuing
25 any solicitation for a contract with the private sector for

1 military family housing the Secretary of the military de-
2 partment concerned shall submit to the congressional de-
3 fense committees the notice described in subsection (b).

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

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

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

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

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

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

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

1 (2) The Committee on Armed Services and the
2 Military Construction Subcommittee, Committee on
3 Appropriations of the House of Representatives.

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

16 SEC. 124. Notwithstanding this or any other provi-
17 sion of law, funds appropriated in Military Construction
18 Appropriations Acts for operations and maintenance of
19 family housing shall be the exclusive source of funds for
20 repair and maintenance of all family housing units, includ-
21 ing general or flag officer quarters: *Provided*, That not
22 more than \$35,000 per unit may be spent annually for
23 the maintenance and repair of any general or flag officer
24 quarters without 30 days advance prior notification to the
25 appropriate committees of Congress, except that an after-

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 SEC. 125. None of the funds made available in this
10 Act may be transferred to any department, agency, or in-
11 strumentality of the United States Government, except
12 pursuant to a transfer made by, or transfer authority pro-
13 vided in, this Act or any other appropriation Act.

14 SEC. 126. No funds appropriated in this Act under
15 the heading “North Atlantic Treaty Organization Security
16 Investment Program”, and no funds appropriated for any
17 fiscal year before fiscal year 2005 for that program that
18 remain available for obligation, may be obligated or ex-
19 pended for the conduct of studies of missile defense.

20 SEC. 127. Section 128(b)3(A) of Public Law 108–
21 132 is amended by striking the words “December 31,
22 2004” and replacing with “August 15, 2005”.

23 SEC. 128. During the current fiscal year, amounts
24 contained in the Ford Island Improvement Account estab-
25 lished under 10 U.S.C. 2814(h) are appropriated and shall

1 be available until expended for the purposes specified in
2 10 U.S.C. 2814(i)(1) or until transferred pursuant to the
3 provisions of 10 U.S.C. 2814(i)(3).

4 SEC. 129. (a) TRANSFER OF CERTAIN EXCESS PROP-
5 ERTY AT FORT HUNTER LIGGETT, CALIFORNIA.—

6 (1) Notwithstanding any other provision of law,
7 whenever the Secretary of the Army determines that
8 any portion of real property consisting of approxi-
9 mately 165,000 acres at Fort Hunter Liggett, Cali-
10 fornia, is excess to the military needs of the Army,
11 the Secretary of the Army shall first offer the prop-
12 erty to the Secretary of Agriculture.

13 (2) If the Secretary of Agriculture determines,
14 pursuant to negotiations with the Secretary of the
15 Army, to accept any property offered under para-
16 graph (1), the Secretary of the Army shall transfer
17 administrative jurisdiction of such property to the
18 Secretary of Agriculture.

19 (b) MANAGEMENT OF TRANSFERRED PROPERTY.—

20 (1) The Secretary of Agriculture shall manage
21 any property transferred under subsection (a) as
22 part of the National Forest System under the Act
23 of March 1, 1911 (commonly known as “Weeks
24 Law”) (16 U.S.C. 480 et seq.), and other laws relat-
25 ing to the National Forest System.

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

4 (c) ADJUSTMENT OF BOUNDARIES.—

5 (1) Effective upon the transfer of property
6 under subsection (a), the boundaries of Los Padres
7 National Forest shall be modified to incorporate
8 such property. The Chief of the United States For-
9 est Service shall file and make available for public
10 inspection in the Office of the Chief of the United
11 States Forest Service in Washington, District of Co-
12 lumbia, a map reflecting any modification of the
13 boundaries of Los Padres National Forest pursuant
14 to the preceding sentence.

15 (2) Any property incorporated within the
16 boundaries of Los Padres National Forest under
17 this section shall be deemed to have been within the
18 boundaries of Los Padres National Forest as of Jan-
19 uary 1, 1965, for purposes of section 7(a) of the
20 Land and Water Conservation Fund Act of 1965
21 (16 U.S.C. 460l-9(a)).

22 (d) ENVIRONMENTAL MATTERS.—

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

1 (A) provide the Secretary of Agriculture all
2 documentation and information in the posses-
3 sion of the Secretary of the Army on the envi-
4 ronmental condition of such property, including
5 an environmental baseline survey or its equiva-
6 lent; and

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

12 (2)(A) The transfer of property under sub-
13 section (a) shall not affect the responsibilities of the
14 Secretary of the Army with respect to such property
15 under any applicable environmental law, including
16 Comprehensive Environmental Response, Compensa-
17 tion, and Liability Act of 1980 (42 U.S.C. 9601 et
18 seq.).

19 (B) Pursuant to the transfer of property, the
20 Secretary of the Army shall perform all environ-
21 mental remediation and response with respect to en-
22 vironmental contamination or injury to natural re-
23 sources on such property that are attributable to
24 former military activities on such property to the ex-

1 tent consistent with the use of such property as part
2 of the National Forest System.

3 (C) The Secretary of Agriculture shall have no
4 liability for any environmental remediation and re-
5 sponse described in subparagraph (B).

6 This Act may be cited as the “Military Construction
7 Appropriations Act, 2005”.

Calendar No. 637

108TH CONGRESS
2^D SESSION

S. 2674

[Report No. 108-309]

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, 2005, and for other purposes.

JULY 15, 2004

Read twice and placed on the calendar