

Calendar No. 486

107TH CONGRESS
2^D SESSION**H. R. 5011**

IN THE SENATE OF THE UNITED STATES

JUNE 28, 2002

Received

JULY 8, 2002

Read twice and placed on the calendar

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, 2003, 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 2003, and for other purposes, namely:

7 MILITARY CONSTRUCTION, ARMY

8 (INCLUDING RESCISSIONS)

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, \$1,514,557,000, to re-
17 main available until September 30, 2007: *Provided*, That
18 of this amount, not to exceed \$158,664,000 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 107–64,
2 \$5,000,000 are rescinded.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, \$1,245,765,000, to remain available until September
12 30, 2007: *Provided*, That of this amount, not to exceed
13 \$94,825,000 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.

19 MILITARY CONSTRUCTION, AIR FORCE

20 (INCLUDING RESCISSION)

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, \$964,302,000, to remain
25 available until September 30, 2007: *Provided*, That of this

1 amount, not to exceed \$78,951,000 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 RESCISSION AND TRANSFER 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 \$901,066,000, to remain available until September 30,
16 2007: *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 \$45,432,000 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 this amount, \$84,400,000 shall
6 not be available until 5 days after the Army notifies the
7 Senate and House appropriations committees that it is
8 able to meet milestones for construction of chemical weap-
9 ons destruction facilities agreed upon by the Office of the
10 Secretary of Defense and the Office of Management and
11 Budget.

12 MILITARY CONSTRUCTION, ARMY NATIONAL GUARD

13 For construction, acquisition, expansion, rehabilita-
14 tion, and conversion of facilities for the training and ad-
15 ministration of the Army National Guard, and contribu-
16 tions therefor, as authorized by chapter 1803 of title 10,
17 United States Code, and Military Construction Authoriza-
18 tion Acts, \$159,672,000, to remain available until Sep-
19 tember 30, 2007.

20 MILITARY CONSTRUCTION, AIR NATIONAL GUARD

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

1 Acts, \$119,613,000, to remain available until September
2 30, 2007.

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, \$99,059,000, to remain
9 available until September 30, 2007.

10 MILITARY CONSTRUCTION, NAVAL RESERVE

11 For construction, acquisition, expansion, rehabilita-
12 tion, and conversion of facilities for the training and ad-
13 ministration of the reserve components of the Navy and
14 Marine Corps as authorized by chapter 1803 of title 10,
15 United States Code, and Military Construction Authoriza-
16 tion Acts, \$75,821,000, to remain available until Sep-
17 tember 30, 2007.

18 MILITARY CONSTRUCTION, AIR FORCE RESERVE

19 For construction, acquisition, expansion, rehabilita-
20 tion, and conversion of facilities for the training and ad-
21 ministration of the Air Force Reserve as authorized by
22 chapter 1803 of title 10, United States Code, and Military
23 Construction Authorization Acts, \$75,276,000, to remain
24 available until September 30, 2007.

1 NORTH ATLANTIC TREATY ORGANIZATION
2 SECURITY INVESTMENT PROGRAM

3 For the United States share of the cost of the
4 North Atlantic Treaty Organization Security Investment
5 Program for the acquisition and construction of military
6 facilities 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, \$168,200,000, 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 \$283,346,000, to remain available until September 30,
18 2007.

19 FAMILY HOUSING OPERATION AND MAINTENANCE,
20 ARMY

21 For expenses of family housing for the Army for op-
22 eration and maintenance, including debt payment, leasing,
23 minor construction, principal and interest charges, and in-
24 surance premiums, as authorized by law, \$1,119,007,000.

1 FAMILY HOUSING CONSTRUCTION, NAVY AND MARINE
2 CORPS

3 (INCLUDING RESCISSION)

4 For expenses of family housing for the Navy and Ma-
5 rine Corps for construction, including acquisition, replace-
6 ment, addition, expansion, extension and alteration, as au-
7 thorized by law, \$380,268,000, to remain available until
8 September 30, 2007.

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

11 For expenses of family housing for the Navy and Ma-
12 rine Corps for operation and maintenance, including debt
13 payment, leasing, minor construction, principal and inter-
14 est charges, and insurance premiums, as authorized by
15 law, \$867,788,000.

16 FAMILY HOUSING CONSTRUCTION, AIR FORCE
17 (INCLUDING RESCISSION)

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 \$689,824,000, to remain available until September 30,
22 2007.

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 \$874,050,000.

8 FAMILY HOUSING CONSTRUCTION, 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, as authorized by law, \$5,480,000, to remain
14 available until September 30, 2007.

15 FAMILY HOUSING OPERATION AND MAINTENANCE,
16 DEFENSE-WIDE

17 For expenses of family housing for the activities and
18 agencies of the Department of Defense (other than the
19 military departments) for operation and maintenance,
20 leasing, and minor construction, as authorized by law,
21 \$42,395,000.

22 DEPARTMENT OF DEFENSE FAMILY HOUSING
23 IMPROVEMENT FUND

24 For the Department of Defense Family Housing Im-
25 provement Fund, \$2,000,000, to remain available until ex-

1 pending, for family housing initiatives undertaken pursu-
2 ant to section 2883 of title 10, United States Code, pro-
3 viding alternative means of acquiring and improving mili-
4 tary family housing, and supporting facilities.

5 BASE REALIGNMENT AND CLOSURE ACCOUNT

6 For deposit into the Department of Defense Base
7 Closure Account 1990 established by section 2906(a)(1)
8 of the Department of Defense Authorization Act, 1991
9 (Public Law 101–510), \$545,138,000, to remain available
10 until expended.

11 GENERAL PROVISIONS

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

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

22 SEC. 103. Funds appropriated to the Department of
23 Defense for construction may be used for advances to the
24 Federal Highway Administration, Department of Trans-
25 portation, for the construction of access roads as author-

1 ized by section 210 of title 23, United States Code, when
2 projects authorized therein are certified as important to
3 the national defense by the Secretary of Defense.

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

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

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

24 SEC. 107. None of the funds appropriated in Military
25 Construction Appropriations Acts for minor construction

1 may be used to transfer or relocate any activity from one
2 base or installation to another, without prior notification
3 to the Committees on Appropriations.

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

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

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

18 SEC. 111. None of the funds appropriated in Military
19 Construction Appropriations Acts may be obligated for ar-
20 chitect and engineer contracts estimated by the Govern-
21 ment to exceed \$500,000 for projects to be accomplished
22 in Japan, in any NATO member country, or in countries
23 bordering the Arabian Sea, unless such contracts are
24 awarded to United States firms or United States firms
25 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. During the 5-year period after appropria-
2 tions available to the Department of Defense for military
3 construction and family housing operation and mainte-
4 nance and construction have expired for obligation, upon
5 a determination that such appropriations will not be nec-
6 essary for the liquidation of obligations or for making au-
7 thorized adjustments to such appropriations for obliga-
8 tions incurred during the period of availability of such ap-
9 propriations, unobligated balances of such appropriations
10 may be transferred into the appropriation “Foreign Cur-
11 rency Fluctuations, Construction, Defense” to be merged
12 with and to be available for the same time period and for
13 the same purposes as the appropriation to which trans-
14 ferred.

15 SEC. 119. The Secretary of Defense is to provide the
16 Committees on Appropriations of the Senate and the
17 House of Representatives with an annual report by Feb-
18 ruary 15, containing details of the specific actions pro-
19 posed to be taken by the Department of Defense during
20 the current fiscal year to encourage other member nations
21 of the North Atlantic Treaty Organization, Japan, Korea,
22 and United States allies bordering the Arabian Sea to as-
23 sume a greater share of the common defense burden of
24 such nations and the United States.

1 SEC. 120. During the current fiscal year, in addition
2 to any other transfer authority available to the Depart-
3 ment of Defense, proceeds deposited to the Department
4 of Defense Base Closure Account established by section
5 207(a)(1) of the Defense Authorization Amendments and
6 Base Closure and Realignment Act (Public Law 100–526)
7 pursuant to section 207(a)(2)(C) of such Act, may be
8 transferred to the account established by section
9 2906(a)(1) of the Department of Defense Authorization
10 Act, 1991, to be merged with, and to be available for the
11 same purposes and the same time period as that account.

12 SEC. 121. (a) No funds appropriated pursuant to this
13 Act may be expended by an entity unless the entity agrees
14 that in expending the assistance the entity will comply
15 with sections 2 through 4 of the Act of March 3, 1933
16 (41 U.S.C. 10a–10c, popularly known as the “Buy Amer-
17 ican Act”).

18 (b) No funds made available under this Act shall be
19 made available to any person or entity who has been con-
20 victed of violating the Act of March 3, 1933 (41 U.S.C.
21 10a–10c, popularly known as the “Buy American Act”).

22 SEC. 122. (a) In the case of any equipment or prod-
23 ucts that may be authorized to be purchased with financial
24 assistance provided under this Act, it is the sense of the
25 Congress that entities receiving such assistance should, in

1 expending the assistance, purchase only American-made
2 equipment and products.

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

7 SEC. 123. Subject to 30 days prior notification to the
8 Committees on Appropriations, such additional amounts
9 as may be determined by the Secretary of Defense may
10 be transferred to the Department of Defense Family
11 Housing Improvement Fund from amounts appropriated
12 for construction in “Family Housing” accounts or con-
13 struction of military unaccompanied housing projects in
14 “Military Construction” accounts, to be merged with and
15 to be available for the same purposes and for the same
16 period of time as amounts appropriated directly to the
17 Fund: *Provided*, That appropriations made available to
18 the Fund shall be available to cover the costs, as defined
19 in section 502(5) of the Congressional Budget Act of
20 1974, of direct loans or loan guarantees issued by the De-
21 partment of Defense pursuant to the provisions of sub-
22 chapter IV of chapter 169, title 10, United States Code,
23 pertaining to alternative means of acquiring and improv-
24 ing military family housing and supporting facilities.

1 SEC. 124. (a) Not later than 60 days before issuing
2 any solicitation for a contract with the private sector for
3 military family housing the Secretary of the military de-
4 partment concerned shall submit to the congressional de-
5 fense committees the notice described in subsection (b).

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

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

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

16 (C) the extended deployment overseas of units
17 stationed at such installation.

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

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

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

4 (2) The Committee on Armed Services and the
5 Military Construction Subcommittee, Committee on
6 Appropriations of the House of Representatives.

7 SEC. 125. During the current fiscal year, in addition
8 to any other transfer authority available to the Depart-
9 ment of Defense, amounts may be transferred from the
10 account established by section 2906(a)(1) of the Depart-
11 ment of Defense Authorization Act, 1991 and from funds
12 appropriated for the operation and maintenance of the
13 military departments contained in Title II of the Depart-
14 ment of Defense Appropriations Act, 2003, to the fund
15 established by section 1013(d) of the Demonstration Cities
16 and Metropolitan Development Act of 1966 (42 U.S.C.
17 3374) to pay for expenses associated with the Home-
18 owners Assistance Program. Any amounts transferred
19 shall be merged with and be available for the same pur-
20 poses and for the same time period as the fund to which
21 transferred.

22 SEC. 126. Notwithstanding this or any other provi-
23 sion of law, funds appropriated in Military Construction
24 Appropriations Acts for operations and maintenance of
25 family housing shall be the exclusive source of funds for

1 repair and maintenance of all family housing units, includ-
2 ing general or flag officer quarters: *Provided*, That not
3 more than \$35,000 per unit may be spent annually for
4 the maintenance and repair of any general or flag officer
5 quarters without 30 days advance prior notification to the
6 appropriate committees of Congress: *Provided further*,
7 That the Under Secretary of Defense (Comptroller) is to
8 report annually to the Committees on Appropriations all
9 operations and maintenance expenditures for each indi-
10 vidual general or flag officer quarters for the prior fiscal
11 year.

12 SEC. 127. Notwithstanding any other provision of
13 law, the Secretary of the Navy is authorized to use funds
14 received pursuant to section 2601 of title 10, United
15 States Code, for the construction, improvement, repair,
16 and maintenance of the historic residences located at Ma-
17 rine Corps Barracks, 8th and I Streets, Washington, D.C.:
18 *Provided*, That the Secretary notifies the appropriate com-
19 mittees of Congress 30 days in advance of the intended
20 use of such funds: *Provided further*, That this section re-
21 mains effective until September 30, 2006.

22 SEC. 128. Of the funds provided in previous Military
23 Construction Appropriations Acts, a total of \$44,627,000
24 is hereby rescinded, as of the date of enactment of this
25 Act, from the following accounts in the specified amounts

1 to reflect savings from favorable foreign currency fluctua-
2 tions:

3 “Military Construction, Army”, \$13,676,000.

4 “Military Construction, Navy”, \$1,340,000.

5 “Military Construction, Air Force”,
6 \$10,281,000.

7 “Military Construction, Defense-wide”,
8 \$2,976,000.

9 “Family Housing Construction, Army”,
10 \$4,920,000.

11 “Family Housing Construction, Navy”,
12 \$2,652,000.

13 “Family Housing Construction, Air Force”,
14 \$8,782,000.

15 SEC. 129. None of the funds made available in this
16 Act may be transferred to any department, agency, or in-
17 strumentality of the United States Government, except
18 pursuant to a transfer made by, or transfer authority pro-
19 vided in, this Act or any other appropriation Act.

20 SEC. 130. None of the funds made available in this
21 Act may be used to prepare any documents relating to
22 the conveyance out of United States ownership of real
23 property at former Fort Ord, California, intended for use
24 for housing development, as defined in the redevelopment
25 plan for Fort Ord.

12 This Act may be cited as the “Military Construction
13 Appropriations Act, 2003”.

Attest: **JEFF TRANDAHL,**
Clerk.

Calendar No. 486

107TH CONGRESS
2^D SESSION

H. R. 5011

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, 2003, and for other purposes.

JULY 8, 2002

Read twice and placed on the calendar