

CRS Report for Congress

Received through the CRS Web

Appropriations for FY2005: Military Construction

Updated November 15, 2004

nae redacted
Analyst in National Defense
Foreign Affairs, Defense, and Trade Division

The annual consideration of appropriations bills (regular, continuing, and supplemental) by Congress is part of a complex set of budget processes that also encompasses the consideration of budget resolutions, revenue and debt-limit legislation, other spending measures, and reconciliation bills. In addition, the operation of programs and the spending of appropriated funds are subject to constraints established in authorizing statutes. Congressional action on the budget for a fiscal year usually begins following the submission of the President's budget at the beginning of each annual session of Congress. Congressional practices governing the consideration of appropriations and other budgetary measures are rooted in the Constitution, the standing rules of the House and Senate, and statutes, such as the Congressional Budget and Impoundment Control Act of 1974.

This report is a guide to one of the 13 regular appropriations bills that Congress considers each year. It is designed to supplement the information provided by the House and Senate Military Construction Appropriations Subcommittees. It summarizes the status of the bill, its scope, major issues, funding levels, and related congressional activity, and is updated as events warrant. The report lists the key CRS staff relevant to the issues covered and related CRS products.

NOTE: A Web version of this document with active links is available to congressional staff at [\[http://www.crs.gov/products/appropriations/apppage.shtml\]](http://www.crs.gov/products/appropriations/apppage.shtml).

Appropriations for FY2005: Military Construction

Summary

The military construction (MilCon) appropriations bill provides funding for (1) military construction projects in the United States and overseas; (2) military family housing operations and construction; (3) U.S. contributions to the NATO Security Investment Program; and (4) the bulk of base realignment and closure (BRAC) costs.

The President forwarded his FY2005 budget request of \$9.6 billion to the Congress on February 2, 2004.

Military construction subcommittees held hearings between February 25 and June 22, 2004. The House Appropriations Committee introduced its bill (H.R. 4837) on July 15, 2004. The Senate Appropriations Committee reported its bill (S. 2674) on the same day. Both bills recommended \$10.0 billion in new budget authority.

Floor action on H.R. 4837 began on July 21. A procedural dispute regarding Section 129 of the bill (adjusting the cap on new budget authority available for the military housing privatization program) precipitated the drafting of a separate bill (H.R. 4879) incorporating a portion of the section, which was struck on a point of order. The House passed an amended H.R. 4837 on July 22, which was received in the Senate on September 7. On September 15, the Senate incorporated the text of S. 2674 into H.R. 4837, passing the amended bill on September 20 and appointing its conferees. The House appointed conferees on October 8.

On October 5, the President submitted a hurricane disaster assistance emergency supplemental appropriation bill (H.R. 5212) that included \$148.9 million in DOD construction and repair appropriations. The bill's language was incorporated into Division B of H.R. 4837, whose short title was changed to the *Military Construction Appropriations and Emergency Hurricane Supplemental Appropriations Act, 2005*.

Division C of H.R. 4837, titled the *Alaska Natural Gas Pipeline Act*, incorporates some portions of H.R. 6., the *Energy Policy Act of 2003*. The House passed H.R. 4837 on October 9, as did the Senate on October 11. The President signed the bill into law on October 13, 2004 (P.L. 108-324).

Authorization of military construction is included within the defense authorization bill. The House passed its version of the bill (H.R. 4200) on May 19. The Senate substituted the text of S. 2400, passing the amended bill on June 24. The conference began on September 29, 2004, and ended on October 8. The House and the Senate passed the bill on October 9. The President signed the bill into law on October 18, 2004 (P.L. 108-375). For a comprehensive report on defense authorization legislation, see CRS Report RL32305, *Authorization and Appropriations for FY2005: Defense*, by (name redacted) and (name redacted).

Key Policy Staff

Area of Expertise	Name	CRS Division *	Telephone and E-Mail
Base Closure, Process	David Lockwood	FDT	7-.... [redacted]@crs.loc.gov
	(name redacted)	FDT	7-.... [redacted]@crs.loc.gov
Base Closure, Environmental Policy	(name redacted)	RSI	7-.... [redacted]@crs.loc.gov
Base Closure, Land Use Law	(name redacted)	ALD	7-.... [redacted]@crs.loc.gov
Base Closure, Economic Redevelopment	J. (name redacted)	RSI	7-.... [redacted]@crs.loc.gov
Base Closure, Economic Redevelopment	Baird J. Webel	G&F	7-.... [redacted]@crs.loc.gov
Base Closure, Document Search	Linwood B. Carter	INF	7-.... [redacted]@crs.loc.gov
Base Closure, General Military Law	(name redacted)	ALD	7-.... [redacted]@crs.loc.gov
Defense Acquisition	Valerie Grasso	FDT	7-.... [redacted]@crs.loc.gov
Def. Budget, Mil. Con./ Defense Industry	(name redacted)	FDT	7-.... [redacted]@crs.loc.gov
Defense Budget	(name redacted)	FDT	7-.... [redacted]@crs.loc.gov
	(name redacted)	FDT	7-.... [redacted]@crs.loc.gov
Defense Reform	Gary Pagliano	FDT	7-.... [redacted]@crs.loc.gov
Guard and Reserve Issues	(name redacted)	FDT	7-.... [redacted]@crs.loc.gov

* FDT = Foreign Affairs, Defense, and Trade Division; RSI = Resources, Science, and Industry Division; ALD = American Law Division; G&F = Government and Finance Division; INF = Information Research Division.

Contents

Most Recent Developments	1
Background	1
Content of Annual Military Construction Appropriations and Defense Authorization Bills	1
Bill Status	4
Appropriations Action	4
House Appropriations Action	4
Senate Appropriations Action	5
Conference Action	6
Key Policy Issues	6
Overall Funding Levels	6
Realignment of Overseas Bases	7
Redeployment of U.S. Troops from Overseas Garrisons to Bases within the United States, 2004-2014	9
Base Realignment and Closure (BRAC)	11
Military Housing Privatization Budget Authority Cap	13
Significant Funding Trends	17
Legislation	19
Military Construction Appropriations	19
Defense Authorization	22
For Additional Information	27
CRS Products	27
Selected World Wide Websites	28

List of Figures

Figure 1. Military Construction Funding, FY1989-FY2005	18
--	----

List of Tables

Table 1. Status of Military Construction Appropriations, FY2005	4
Table 2. Selected U.S. Overseas Garrisons, 1986 and 2003	10
Table 3. Selected U.S. Overseas Garrisons, Grouped Totals, 1986 and 2003 ...	11
Table 4. Military Construction Appropriations by Account: FY2004-FY2005 ..	24
Table 5. Military Construction FY2005 Appropriations by Account: Congressional Action	25
Table 6. Congressional Additions to Annual DOD Budget Requests for National Guard and Reserve Military Construction, FY1995-FY2005	26

Appropriations for FY2005: Military Construction

Most Recent Developments

The President signed H.R. 4837, the *Military Construction Appropriations and Emergency Hurricane Supplemental Appropriations Act, 2005*, into law on October 13, 2004 (P.L. 108-324).

The President signed H.R. 4200, the *Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005*, into law on October 28, 2004 (P.L. 108-375).

Background

Content of Annual Military Construction Appropriations and Defense Authorization Bills

The Department of Defense (DOD) manages the world's largest dedicated infrastructure, covering more than 29.2 million acres of land with a physical plant worth almost \$647 billion, housed within buildings encompassing more than 2.2 billion square feet of floor space. More than 2.36 million men and women, including 1.7 million military personnel, 465,000 civil servants, and 195,000 other U.S. and foreign nationals, work on U.S. military installations. Eighty-eight percent of military personnel, 95 percent of civil servants, and more than half of other employees work on the 3,842 listed installations that constitute the 98 percent of Department of Defense land located within the United States and its territories. The remainder work at 860 listed installations located in foreign countries.

The military construction appropriations bill provides a large part of the funding to enhance and maintain this infrastructure. The bill funds construction projects and some of the facility sustainment, restoration, and modernization of the active Army, Navy and Marine Corps, Air Force, and their reserve components;¹ additional defense-wide construction; U.S. contributions to the NATO Security Investment

¹ Facility sustainment, restoration, and modernization (SRM) includes the repair and maintenance of buildings, structures, warehouses, roadways, runways, aprons, railway tracks, utility plants, and their associated distribution systems, plus minor construction (cost not to exceed \$500,000) to create new facilities or expand, alter, or convert existing facilities. A large part of the funding dedicated to the SRM function is requested not as part of the military construction appropriation, but rather as part of the Operations and Maintenance account within the annual national defense appropriation.

Program (formerly known as the NATO Infrastructure Program);² and military family housing operations and construction. The bill also provides funding for the Base Realignment and Closure (BRAC) account, which finances most base realignment and closure costs, including construction of new facilities for transferred personnel and functions and environmental cleanup at closing sites.³

The military construction appropriations bill is but one piece of annual legislation that provides funding for the country's "national security." Other national security appropriation legislation includes the national defense appropriations bill, which provides funds for all non-construction military activities of the Department of Defense and constitutes more than 90% of national security-related spending, and the energy and water development appropriations bill, which provides funding for atomic energy defense activities of the Department of Energy and for civil projects carried out by the U.S. Army Corps of Engineers. Two other appropriations bills, VA-HUD-Independent Agencies and Commerce-Justice-State, also include small amounts for national defense.⁴ Supplemental appropriations bills may be passed to provide additional Department of Defense funding as needed.

No funds may be expended by any agency of the federal government before they are appropriated.⁵ In addition, for nearly half a century Congress has forbidden the Department of Defense to obligate funds for any project or program until specific authorization is granted.⁶ This explains why, for defense funds, both authorization and appropriations bills are required. The annual Military Construction Appropriations Act is dedicated to military construction, and the annual National Defense Appropriations Act covers all other Department of Defense appropriations.⁷ Normally only one National Defense Authorization Act is passed each year to authorize both of these appropriations.⁸ Therefore, major debates over defense policy

² The NATO Security Investment program is the U.S. contribution to Alliance funds for the construction of facilities and the procurement of equipment essential to the wartime support of operational forces in the common defense of the NATO area. Facilities funded by this program include airfields, naval bases, signal and telecom installations, pipelines, and war headquarters, as well as early warning radar and missile installations. The U.S. contributes approximately 25% of the total annual NSIP assessment, with the rest coming from the other members of the North Atlantic Alliance.

³ Virtually all costs associated with the latest completed BRAC round (that of FY1995) have been funded. The bulk of current BRAC appropriations are dedicated to the environmental remediation of closed military installations.

⁴ See CRS Report RL32305, *Appropriations and Authorization: FY2005: Defense*, by (name redacted) and (name redacted), for details on the defense authorization and appropriation process.

⁵ Article I, Section 9, Clause 7 of the U.S. Constitution.

⁶ See 10 U.S.C. 114.

⁷ The relevant subcommittees of the House and Senate Appropriations Committees are Military Construction (for the military construction appropriation) and Defense (for the national defense appropriation).

⁸ The Subcommittee on Readiness in the House Armed Services Committee and the
(continued...)

and funding issues, including military construction, can be associated with any of these bills. Because issues in the defense authorization and appropriations bills intertwine, this report includes salient parts of the authorization bill in its discussion of the military construction appropriation process.

The separate military construction appropriations bill dates back to the late 1950s. Traditionally, military construction was funded through annual defense or supplemental appropriations bills. However, the Korean War prompted a surge of military construction, followed by a steady increase in military construction appropriations. The strong and enduring security threat posed by the Soviet Union drove a relatively high and continuous level of spending on military infrastructure. The congressional appropriations committees established military construction subcommittees and created a separate military construction bill. The first stand-alone military construction bill was written for FY1959 (P.L. 85-852).

It should be pointed out that, first, military construction appropriations are not the sole source of funds available to defense agencies for facility investment. The national defense appropriations bill funds so-called minor construction and property maintenance within its operations and maintenance accounts. Construction and maintenance of Morale, Welfare, and Recreation-related facilities are partially funded through proceeds of commissaries, recreation user fees, and other non-appropriated income. Second, several special accounts are included within the military construction appropriation. Among these are the Homeowners Assistance Fund (Defense),⁹ and the Department of Defense Family Housing Improvement Fund,¹⁰ both of which perform functions ancillary to the direct building of military infrastructure.

Most congressional appropriations must be obligated in the fiscal year for which they are appropriated. Military construction appropriations, though, are an exception.

⁸ (...continued)

Subcommittee on Readiness and Management Support in the Senate Armed Services Committee draft legislation to authorize military construction appropriations.

⁹ The Homeowners Assistance Fund (Defense) was established by the Demonstration Cities and Metropolitan Development Act of 1966 (42 USC 3374). It authorizes the Secretary of Defense to acquire the title to, or to reimburse for certain losses upon the sale of, one- and two-family homes owned by federal employees located at or near military installations ordered closed in whole or in part.

¹⁰ 10 U.S.C. 2883 (Department of Defense Housing Funds) is part of subchapter IV (Alternative Authority for Acquisition and Improvement of Military Housing) of the basic law governing the armed forces. It establishes two independent funds: the Department of Defense Family Housing Improvement Fund and the Department of Defense Military Unaccompanied Housing Improvement Fund (unaccompanied members of the military are either unmarried or are married but separated geographically from their families). The funds are sustained by direct appropriation, fund transfers made by the Secretary of Defense or the Secretary of the Navy from other accounts, proceeds from certain title conveyances or the lease of federal military family housing property, or other financial activity associated with either military family or unaccompanied housing. These funds may be used for the planning, construction, or improvement of military housing as provided for under this particular subchapter of Title 10.

Because of the long-term nature of construction projects, these funds can generally be obligated for up to five fiscal years.

Consideration of the military construction budget begins when the President's budget is delivered to Congress each year, usually in early February. This year, the President submitted his FY2005 budget request to the Congress on February 2, 2004.

Bill Status

Table 1 shows the key legislative steps necessary for the enactment of the FY2005 military construction appropriations. It will be updated as the appropriation process moves forward.

Table 1. Status of Military Construction Appropriations, FY2005

Committee Markup		House Report	House Passage	Senate Report	Senate Passage	Conf. Report	Conference Report Approval		Public Law
House	Senate						House	Senate	
07/15/04	07/15/04	H.Rept. 108-607	07/22/04	S.Rept. 108-309	09/20/04	H.Rept. 108-773	10/09/04	10/11/04	P.L. 108-324

Note: Dashes indicate no action yet taken.

Appropriations Action

An emergency supplemental appropriation, H.R. 5212, introduced on October 5, and the continuing resolution, H.J.Res. 107, enacted on September 30, 2004, are discussed in the **Legislation** section below.

House Appropriations Action. The House Committee on Appropriations Subcommittee on Military Construction held nine hearings between February 25 and June 22, 2004. The topics addressed included Quality of Life (senior enlisted and military family representatives, February 25), family housing privatization and Central Command programs (March 3), overview of military construction (Department of Defense representatives, March 10), European Command programs (March 25), Pacific Command programs (March 31), Navy programs (June 15), Army programs (June 16), and Air Force programs (June 22). The subcommittee reported its bill to the full committee by voice vote on July 6, and the full committee reported its mark on H.R. 4837 on July 15, 2004 (H.Rept. 108-607). The bill was then placed on the Union Calendar, Calendar No. 365.

H.R. 4837 was introduced on the floor of the House on July 21. Debate centered on Section 129 of the bill, a provision that would raise the limitation on the budget authority that could be applied to the military housing privatization initiative and would exempt such budget authority from scoring (*Congressional Record*, H6460-6469). A more extensive discussion of the issue is included in the *Military Housing Privatization Budget Authority Cap* portion of the *Key Policy Issues* section

of this report. A separate bill, H.R. 4879, which incorporated the budget authority language of Section 129, was introduced in mid-afternoon and passed under suspension of the rules (requiring a two-thirds majority) on a vote of 423-0-11 (Roll no. 406, *Congressional Record*, H6489-95, H6498).

H.R. 4837 was brought up again as unfinished business on the evening of July 22. Mr. Nussle raised a point of order against the content of the measure, citing Section 129 as seeking to change existing law (violating House Rule XXI). The point of order was sustained by the Chair, thereby striking Section 129 from the bill. Mr. Obey moved to recommit the bill to the Committee on Appropriations with instructions to increase the military housing privatization budget authority limitation referred to above. Mr. Nussle raised a point of order against the motion and was again sustained by the Chair. Mr. Obey then moved to recommit the bill to the Committee on Appropriations with slightly different instructions. The House then engaged in ten minutes of debate on the motion, whereupon it was ordered. The motion failed on a vote of 201-217-16 (Roll no. 416). H.R. 4837 was then passed on a vote of 420-1-11 (Roll no. 417).

On October 8, after the return of the amended bill from the Senate (see *Senate Appropriations Actions*, below), the House agreed without objection to disagree with the amendment and appointed conferees.

Senate Appropriations Action. The Senate Committee on Appropriations Subcommittee on Military Construction held two hearings on Defense-Wide and Air Force construction projects (March 30) and Army and Navy projects (April 7, 2004). The subcommittee completed the informal markup of its bill on July 14, and the full committee reported its mark on S. 2674 on July 15 (S.Rept. 108-309).¹¹ The bill was placed on the Legislative Calendar under General Orders (Calendar No. 637).

The Senate received H.R. 4837 from the House on September 7, 2004, read it twice, and placed it on the Legislative Calendar (Calendar No. 690). On September 15, S. 2674 was brought to the floor. Senator Hutchison, on behalf of herself and Senator Feinstein, offered two amendments, S.Amdt. 3660 and S.Amdt. 3661 (see *Congressional Record* S9242). S.Amdt. 3660 (new Sec. 130) would make available additional funds in the sum of \$1.5 million for the Commission on Review of Overseas Military Facility Structure of the United States. S.Amdt. 3661 (new Sec. 131) would require the Department of Defense to assess the impact on the military family housing program of having the total value of contracts and investments undertaken under the Military Housing Privatization Initiative reach the limitation on budget authority (both of these issues are addressed at length elsewhere in this report). Both amendments were agreed to by Unanimous Consent, and the bill was returned to the Calendar (Calendar No. 637).

¹¹ An informal subcommittee markup, or poll, is not uncommon in the creation of bills that are expected to be approved without significant amendment in drafting. It is often effected through the distribution of a draft to subcommittee Members, who then have the opportunity to amend the text or approve it as drafted.

The Senate then incorporated the language of S. 2674 into H.R. 4837 as an amendment. The Senate passed the amended H.R. 4837 on September 20 by recorded vote 91-0-9. The Senate sent a message on its action to the House on September 22, 2004.

Conference Action. Senate conferees were appointed on September 20. The House disagreed with the Senate amendment, and conferees were appointed on October 8.

The conferees added Division B, the *Emergency Supplemental Appropriations for Hurricane Disasters Assistance Act, 2005*, and Division C, the *Alaska Natural Gas Pipeline Act*, to the basic bill.¹²

The conferees filed the conference report (H.Rept. 108-773, text at *Congressional Record* H9054-9113) on October 9. The House considered the report (*Congressional Record* H9175-9176) and agreed by the Yeas and Nays, 374-0-58 (Roll no. 529). That same day, the Senate began consideration on the conference report, and a cloture motion was presented (*Congressional Record* S10978-10979). The cloture motion was withdrawn by unanimous consent on October 11, and the Senate agreed to the conference report by Voice Vote (*Congressional Record* S11223-11228).

The bill was presented to the President and signed on October 13, 2004 (P.L. 108-324).

Key Policy Issues

Several issues regarding military construction have gained visibility during the legislative deliberations of the current session of Congress. Among these are overall funding levels, realignment of overseas bases, base realignment and closure (BRAC), and perchlorate ground water contamination remediation.

Overall Funding Levels. The FY2005 budget submitted by the President on February 2, 2004, as subsequently amended, requested \$9.6 billion in new budget authority, an amount \$112.7 million below the 2004 enactment.¹³ As shown in **Table**

¹² For more information on the *Emergency Supplemental Appropriations for Hurricane Disasters Assistance Act, 2005*, see CRS Report RL32581, *Assistance After Hurricanes and Other Disasters: FY2004 and FY2005 Supplemental Appropriations*, by (name redacted) and (name redacted). For an explanation of energy policy issues related to the *Alaska Natural Gas Pipeline Act*, see CRS Report RL32033, *Omnibus Energy Legislation (H.R. 6): Side-by-side Comparison of Non-tax Provisions*, by (name redacted) and (name redacted), coordinators, and CRS Report RL32315, *Oil and Gas Exploration and Development on Public Lands*, by (name redacted).

¹³ The original February appropriation proposal of \$9.52 billion was increased to \$9.55 billion by the addition of \$30 million made available by the cancellation of the RAH-64 *Comanche* helicopter program. This new budget authority was dedicated to three new (continued...)

4, *Active Component* military construction requested is \$378.7 million below that enacted for FY2004, with increases in the Army and Defense-wide accounts being more than offset by decreases for the Navy and Air Force.¹⁴ Requests for every account within the *Reserve Components*, save for the Air Force Reserve, are below the amounts enacted last year, with the net impact being a \$110.5 million decline from the previous year. The overall military construction request for FY2005 is \$489 million below the enactment for FY2004.

Family housing construction and operation and debt servicing, as requested for FY2005, represents an increase of more than \$351.5 million over that enacted for FY2004. Caution should be exercised in interpreting these figures, however, because the military services are responsible for satisfying their own family housing needs, and the Department of Defense and military services are engaged in an extensive program of privatizing (i.e., removing from direct support by military construction appropriations) a significant portion of military housing. In addition, the services are completing a nine-year effort to substantially increase the military pay supplement (the Basic Allowance for Housing, or BAH, that is funded in the personnel account in the national defense appropriation) to a level that will eliminate out-of-pocket expenses should a military member choose to live in his or her local civilian community.

Realignment of Overseas Bases. The armed services are in the midst of a global reassessment study of their infrastructure inventory, with an eye toward reducing the number and realigning the concentration of troops stationed outside the United States and its territories. This closely parallels, but is separate from, the process of realigning military installations within the United States, known as Base Realignment and Closure, or BRAC. Details of what is variously known as the Global Posture Study, “global sourcing,” efficient basing, or the “global BRAC,” have not yet been released by the Department of Defense. The Senate Committee on Armed Services has scheduled a hearing on the matter for Thursday, September 23, 2004. The Secretary of Defense and the unified command commanders are scheduled to appear as witnesses.

In addition, Congress created the Commission on Review of Overseas Military Facility Structure of the United States last year to determine for itself whether the eventual Department of Defense plan for altering overseas basing requirements and stationing of troops will be adequate to national security needs.¹⁵ The commission is tasked with conducting “a thorough study of matters relating to the military facility structure of the United States overseas” and assessing “whether or not the current military basing and training range structure of the United States overseas is adequate to meet the current and future mission of the Department of Defense, including

¹³ (...continued)

aviation-related construction projects in the Army National Guard appropriation account.

¹⁴ Defense-wide military construction is devoted to projects not properly allocated within the individual military services, such as construction specific to Special Operations Command.

¹⁵ The commission was created by Section 128 of the Military Construction Appropriations Act for Fiscal Year 2004, H.R. 2559, P.L. 108-132.

contingency, mobilization, and future force requirements,” among other duties. The commission’s report, containing its findings, conclusions, and recommendations for legislative and administrative actions, is due to the Congress not later than December 31, 2004 (though language in the report accompanying the Senate version of the Military Construction Appropriations Act for Fiscal Year 2005, S. 2674, extends the report deadline to August 15, 2005, as indicated below). The commission is also to propose an overseas basing strategy for the Department of Defense that will meet its current and future mission requirements.

The law established a commission of eight members, appointed as follows:¹⁶

1. Two appointed by the Majority Leader of the Senate: Maj. Gen. Lewis E. Curtis, III, U.S. Air Force (retired), of Texas; Vice Adm. Anthony A. Less, U.S. Navy (retired), of Virginia;
2. Two appointed by the Minority Leader of the Senate: Al Cornella, of South Dakota (chair), and James A. Thomson, of California;
3. Two appointed by the Speaker of the House of Representatives: none appointed; and
4. Two appointed by the Minority Leader of the House of Representatives: Lt. Gen. H. G. (Pete) Taylor, U.S. Army (retired), of Texas, and Keith Martin of Pennsylvania.

A major issue for Congress is the absence of a formal Department of Defense plan for the future of its overseas basing. For this specific reason, Congress did not fund some of the construction projects requested by the Department at overseas locations for FY2004. In its report to the Senate on the FY2005 appropriations bill, the Senate Committee on Appropriations noted that the Department of Defense is now more than two years overdue in forwarding its master overseas basing plan to the committee and again recommended against funding several requested overseas construction projects.¹⁷

In its report on the FY2005 appropriations bill, the Senate Committee on Appropriations noted that the creation of the commission had met with significant Department of Defense opposition. Nevertheless, the committee went on to state:

Because of delays in the appointment of commissioners, the establishment of suitable Commission facilities, and the submission to the Congress of the Department’s global basing and presence plan, the deadline for the Commission’s final report is extended to August 15, 2005. This will make the Commission’s life coterminous with its funding, which under current law expires September 30, 2005, and will provide an opportunity for the Commission to interact with the Base Closure and Realignment Commission, whose members need not be appointed until March 15, 2005. However, in order to inform both

¹⁶ The law also provides for a staff of up to 12 individuals, including an executive director, who will assist the commissioners in carrying out their task. The Executive Director of the commission’s staff is Patricia J. Walker, Deputy Assistant Secretary of Defense for Reserve Affairs (Materiel and Facilities), who is on temporary detail to this position.

¹⁷ These included projects requested for Japan, Puerto Rico, Spain, and the United Kingdom and a proposed barracks renovation in the Bahamas.

BRAC and consideration of the fiscal year 2006 military construction appropriations bill, the committee urges the Overseas Basing Commission to present its preliminary conclusions to the Congress no later than March 31, 2005.¹⁸

Section 2518 of the House-passed version of the National Defense Authorization Act for FY2005 would repeal the provision of law that established the commission. There is no such provision in the bill as it was passed by the Senate. The conference report retained the Senate's due date extension for the Commission's final report, but eliminated additional funding that the Senate had provided.

Redeployment of U.S. Troops from Overseas Garrisons to Bases within the United States, 2004-2014.

Presidential Announcement. On August 16, 2004, President George W. Bush included the following remarks in his address to the national convention of the Veterans of Foreign Wars (VFW) in Cincinnati, Ohio:

I'm announcing today, over the next 10 years, we will bring home about 60,000 to 70,000 uniformed personnel, and about 100,000 family members and civilian employees.¹⁹

The Redeployment in Context. Analysts expect that the majority of the forces redeployed to the United States will be drawn from those countries that currently host the largest overseas U.S. garrisons. These are the Federal Republic of Germany, the Republic of Korea, and Japan.

It may be helpful to place this redeployment in historic context by comparing the numbers of troops in garrison in these three countries in 1986 with those in garrison in 2003. The figures for 1986 reflect U.S. overseas force posture during the closing years of the Cold War.²⁰ In addition, the United States then maintained sizable garrisons in both the Republic of the Philippines and the Republic of Panama that would be redeployed to the United States, its possessions, or other overseas locations during the late 1980s and 1990s. Therefore, these troops have been included in the construction of **Tables 2 and 3**.

¹⁸ S.Rept. 108-309, p. 10.

¹⁹ The President's remarks can be seen in their entirety at the White House press release website: [<http://www.whitehouse.gov/news/releases/2004/08/20040816-12.html>]. The numbers quoted by the President include active members of the military, their families and other dependents, and civil service employees. They do not count the host-nation nationals and individuals employed by private contractors who may be affected by the reconfiguration of overseas basing.

²⁰ Active duty military members numbered 2.17 million in 1986, according to the Department of Defense, with 1.70 million on permanent active duty in 2003.

Table 2. Selected U.S. Overseas Garrisons, 1986 and 2003
(As of September 30 of the respective years)

	1986	2003	Change
Federal Republic of Germany			
Army	196,924	60,882	(136,042)
Navy	0	0	0
Air Force	37,929	14,168	(23,761)
Marine Corps	0	0	0
Total	234,853	75,050	(159,803)
Republic of Korea			
Army	31,600	26,313	(5,287)
Navy	0	1,224	1,224
Air Force	12,768	8,788	(3,980)
Marine Corps	0	0	0
Total	44,368	36,325	(8,043)
Japan			
Army	2,308	1,177	(1,131)
Navy	0	1,224	1,224
Air Force	12,768	8,788	(3,980)
Marine Corps	0	0	0
Republic of the Philippines			
Army	0	0	0
Navy	6,180	0	(6,180)
Air Force	9,184	0	(9,184)
Marine Corps	0	0	0
Total	15,364	0	(15,364)
Republic of Panama			
Army	7,634	0	(7,634)
Navy	680	0	(680)
Air Force	2,317	0	(2,317)
Marine Corps	0	0	0
Total	10,631	0	(10,631)

Source: Department of Defense *Base Structure Reports* for Fiscal Years 1987 and 2004.

**Table 3. Selected U.S. Overseas Garrisons, Grouped Totals,
1986 and 2003**

(As of September 30 of the respective years)

	1986	2003	Change
Germany, Japan, and Korea			
Army	230,832	88,372	(142,460)
Navy	14,545	19,603	5,058
Air Force	71,632	37,340	(34,292)
Marine Corps	21,978	12,471	(9,507)
Total	338,987	157,786	(181,201)
Philippines and Panama			
Army	7,634	0	(7,634)
Navy	6,860	0	(6,860)
Air Force	11,501	0	(11,501)
Marine Corps	0	0	0
Total	25,995	0	(25,995)

Source: Department of Defense *Base Structure Reports* for Fiscal Years 1987 and 2004.

These figures indicate that although the announced redeployment is substantial, it has precedent in the post-Cold War era when examined in the context of the entire military force or when focused on the U.S. garrisons in Germany, Korea, and Japan.

Base Realignment and Closure (BRAC). Four BRAC rounds have been completed since the first in 1989. Under statutory language included in the National Defense Authorization Act for FY2002, the Secretary of Defense is authorized to carry out a fifth round of realignment or closures during FY2006 through FY2011.

The Secretary has established a list of criteria that he will use to recommend base closure and realignment actions and has certified to the Congress the need to carry out this fifth BRAC round. The Department of Defense is in the process of evaluating the base infrastructure needs of its future military force. This process includes the detailed assessment of each installation's capacity as measured along a number of dimensions, such as potential for hosting additional troops, ease of access to major transportation resources, proximity to training and operating areas, etc., and the changes needed in order to make it conform to the needs of the future force. This evaluation will result in the creation of a list of BRAC actions that the Secretary is required to submit in May 2005 to an independent BRAC Commission for review. The BRAC Commission is scheduled to forward this list, including any revisions, to

the President in September 2005. The final presidential list of BRAC actions is due to the Congress on November 7, 2005.²¹

The House-passed version of the National Defense Authorization Act for Fiscal Year 2005 (H.R. 4200) contains a provision that would effectively delay the remaining steps in the BRAC process for two years.²² In its Statement of Administration Policy issued on May 19, 2004, the Office of Management and Budget stated:

Base Realignment and Closure (BRAC). The Administration strongly opposes any provision to weaken, delay, or repeal the BRAC authority passed by Congress three years ago. If the President is presented a bill that weakens, delays, or repeals the BRAC authority, the Secretary of Defense, joining with other senior advisors, will recommend that the President veto the bill.

Appearing before the Senate Committee on Armed Services on September 23, 2004, Secretary of Defense Donald Rumsfeld reiterated his opposition to delay of the BRAC round in a response to a question posed by Senator John McCain:

McCain: I want to thank the witnesses. Mr. Secretary, I was very pleased to hear your comments in response to Senator Warner's question about the necessity of BRAC. Would you recommend a veto if a defense bill came to the president that had a two-year delay in BRAC?

Rumsfeld: Yes, I certainly would. It would be a terrible thing, Senator.²³

Press accounts on the deliberations of the conference committee cited the issue of BRAC delay as one of three or four most significant issues confronting the conferees.²⁴

²¹ For more information on the BRAC process, see CRS Report RS21822, *Military Base Closures: DOD's 2005 Internal Selection Process*, by (name redacted) and (name redacted); CRS Report RL32216, *Military Base Closures: Implementing the 2005 Round*, by (name redacted); CRS Report RL30440, *Military Base Closures: Estimates of Costs and Savings*, by (name redacted); CRS Report RL 30051, *Military Base Closures: Agreement on a 2005 Round*, by (name redacted); and CRS Videotape MM 70068, *Military Base Closures: DOD's Internal 2005 BRAC Selection Process*, by (name redacted) and (name redacted), available online at [http://www.crs.gov/products/multimedia/sem_bc-040422.shtml].

²² Sec. 2821-5 in Subtitle C — Base Realignment and Closure, H.R. 4200 EH. The Senate version of the bill contains no such language. Emphasis in the original Statement of Administration Policy, which can be found on the World Wide Web at [<http://www.whitehouse.gov/omb/legislative/sap/108-2/hr4200sap-h.pdf>].

²³ "U.S. Senator John W. Warner (R-Va) Holds Hearing On Global Posture Review - Committee Hearing," Political Transcripts by Federal Document Clearing House, September 23, 2004.

²⁴ Amy Klamper, "Defense Authorization Conferees Nearing An Agreement," *National Journal's CongressDaily*, October 5, 2004.

Conference Report, Ronald Reagan National Defense Authorization Act for Fiscal Year 2005 (H.R. 4200). The conference report for the Ronald Reagan National Defense Authorization Act for Fiscal Year 2005 does not delay the implementation of the 2005 BRAC round, but several sections in the bill do address BRAC issues:

Sec. 2831. The Secretary of Defense is required to submit an updated force-structure plan and infrastructure inventory not later than March 15, 2005. Existing law states that these are to be submitted along with the Department's Fiscal Year 2006 budget justification material.

Sec. 2832. This section specifies the final criteria that are to be used by the Secretary of Defense in calculating the "military value" of installations considered for closure or realignment and "other criteria" that the Secretary shall consider in making his recommendations. Previous law established several criteria for the evaluation of military value and "special considerations" that are to be included "at a minimum" in the writing of the Secretary's recommendations. The Act's language appears to remove some flexibility in the ability of the Secretary to choose those factors he deems relevant to the calculation. Previous law specified that military value is the primary consideration in creating the recommended BRAC action list. The Act's language requires the Secretary to "give priority" to military value. The section goes on to state that the "final selection criteria specified in this section shall be the only criteria to be used, along with the force-structure plan and infrastructure inventory ... in making recommendations for the closure or realignment of military installations inside the United States under this part in 2005."

Sec. 2833. Existing law authorizes the Secretary of Defense to place a military installation in an inactive status as an alternative to closure or realignment. The Act's language repeals this authority.

Sec. 2834. Previous law required the Commission to give the Secretary of Defense a 15-day warning before adding an installation to his list of recommendations for closure or realignment and demanded that seven of the nine Commissioners then vote for the addition. The Act's language made the same requirement applicable to Commission consideration for adding an installation to the Secretary's list of recommendations and requires that at least two members of the Base Realignment and Closure Commission visit any installation for which the Commission intends to add a closure or realignment recommendation not made by the Secretary of Defense or to expand a realignment that the Secretary has recommended.

Military Housing Privatization Budget Authority Cap. In the late 1990s, Congress granted to the Department of Defense specific "alternative authorities" by which the Department could enter into "public-private partnerships" with private enterprise.²⁵ These partnerships are corporations that assume responsibility for the

²⁵ These special authorities give the Department of Defense the power to take actions, such as guaranteeing rents, guaranteeing minimum occupancy rates, investing equity, offering (continued...)

construction, maintenance, and operation of housing for military personnel on, or adjacent to, military installations. To date, the military services have negotiated contracts for 32 separate projects that will create or refurbish more than 61,000 military family housing units.²⁶

This Military Housing Privatization Initiative leverages, but does not replace, the use of appropriated funds to provide military housing. The budget authority needed to support the initiative is calculated, or “scored,” by the Department of Defense according to guidelines established by the Office of Management and Budget.²⁷ 10 U.S.C. 2883(g) imposes limitations on the total value in budget authority of all contracts and investments undertaken using the alternative authorities, restricting the Department of Defense to \$850 million for the acquisition or construction of military family housing and \$150 million for the acquisition or construction of military unaccompanied housing (barracks or dormitories).

Contract negotiations for the creation of almost 74,000 privatized military family housing units are ongoing, and the Department of Defense is planning to privatize an additional 34,000 units during the next few years. The Department of Defense estimates that it will exhaust the budget authority granted to it under the program before the end of the current fiscal year. The Department, therefore, has requested that this budget authority limitation be raised.²⁸

Efforts to Raise the Budget Authority Cap. Section 2806 of H.R. 4200, the National Defense Authorization Act for Fiscal Year 2005 (engrossed as agreed to or passed by House) would repeal the limitation on budget authority applied to military family housing.²⁹ The Senate version of the bill (S. 2400, incorporated into

²⁵ (...continued)

direct loans, etc., that it otherwise could not.

²⁶ See CRS Report RL31039, *Military Housing Privatization Initiative: Background and Issues*, by (name redacted), for a list of the alternative military housing privatization authorities granted to the Department of Defense. The list of existing, solicited, and planned housing privatization projects can be found online at [<http://www.acq.osd.mil/housing/>].

²⁷ Budget scoring (or “scorekeeping”) is the percentage of dollar value, from 0% to 100%, of an action’s cost that must be allocated to an agency’s budget in a given fiscal year. Therefore, if the cost of an action (in this case, the use of an alternative authority in the creation of a housing public-private partnership) is estimated \$1 million and is scored at 10%, then \$100,000 of the agency’s budget authority for that year must be used to cover the assessment. A score of 100% would mean that all \$1 million would have to be covered by the agency’s budget authority in the designated year. This scoring is calculated based on the Government’s “degree of exposure,” or the statistical probability that a default on the project by the private contractor will have a financial impact on the federal deficit. Each of the authorities created for the MHPI has an associated budget score that was calculated by the Office of Management and Budget.

²⁸ The Department and the military services have focused their attention on family, not unaccompanied, housing, so it is the \$850 million family housing authority that is being exhausted.

²⁹ The section leaves unchanged the \$150 million budget authority cap on military (continued...)

H.R. 4200 as an amendment in the nature of a substitute) does not contain similar language, and the difference between the two remains to be worked out in conference. In the meantime, Section 129 of the Military Construction Appropriations Act for FY2005 (H.R. 4837), as it was reported to the House, would have raised the budget authority cap on military family housing by \$500 million to \$1.35 billion. This section was struck when a point of order was raised and sustained during floor debate.

An independent bill, the Military Housing Improvement Act of 2004 (H.R. 4879), accomplishing the same goal, was introduced and passed by the House on July 21, 2004 (see “Military Construction Appropriations,” in the *Legislation* section, below, for more information on legislative action). It was received by the Senate on September 7, 2004, and referred to the Committee on Armed Services. Senator Hutchison, on behalf of herself and Senator Feinstein, offered S.Amdt. 3661 to the Senate version of the Military Construction Appropriations Act for Fiscal Year 2005, S. 2674, when it was laid before the Senate on September 15. This amendment would require the Department of Defense to assess the impact of the exhaustion of new budget authority on the military family housing program. The amendment was accepted into the bill, which was then incorporated into the House version of the Military Construction Appropriations Act (H.R. 4837). Because the language raising the budget authority cap was struck from the House bill on a point of order, the principal effect of this amendment is to allow the issue to be raised in conference. The Senate passed the amended bill on September 20, 2004.

Section 2805 of the Ronald Reagan National Defense Authorization Act for Fiscal Year 2005 (H.R. 4200) repealed both the budget authority cap and the termination date for the use of the alternative authorities, which had been set for December 31, 2012.

The Budget Scoring Issue — Differences Between OMB and CBO.

The Congressional Budget Office has taken issue with the Office of Management and Budget interpretation of federal accounting standards in its scoring of the Department’s alternative authorities. The OMB calculated its scoring according to the financial liability each authority places on the government, thereby recording costs incrementally over time. The CBO, on the other hand, argues that the Department is engaging in a “governmental activity” by supplying family housing in whatever form, either government or privately owned, to military personnel.³⁰ The CBO contends that the Department of Defense exercises significant control over the operation of these housing projects and that the government is the dominant or only source of project income, rendering the partnered private-sector corporation effectively an instrument of the government.³¹

²⁹ (...continued)
unaccompanied housing.

³⁰ This, in the eyes of the CBO, differs from the case where a military member accepts a cash housing allowance and uses it to secure commercial accommodation in a rented or purchased dwelling that is independent of the Department of Defense.

³¹ The CBO bases its contention of government control of privatized projects on provisions
(continued...)

The “leveraging” in the privatization initiative occurs when appropriated funds are used, either in the form of a loan guarantee, direct loan, or equity stake, to assist the private-sector corporation in securing the additional commercial financing necessary to capitalize the project. Because the CBO regards privatization projects as inherently governmental, it considers all such investments as borrowing authority, a form of budget authority, that should be recorded up front rather than scored over time.

For its part, the Department of Defense maintains that privatized housing is controlled by a private corporation, not the government, that military members are free to use their housing allowance wherever they wish, and that the budget authority recorded is properly limited to the amount of financial liability incurred by the Department, as calculated by the OMB scoring rules.

In awarding its 32 family housing projects, the Department of Defense has used OMB’s accounting methodology to record obligations of approximately \$580 million. The CBO, using the rationale explained above, contends that the full amount of the Department’s commitments to date approximates \$6 billion.

The Office of Management and Budget devoted a significant portion of its Statement of Administration Policy on S. 2674, the Senate version of the Military Construction Appropriations Act for Fiscal Year 2005, issued on September 20, 2004, to an explanation of its position on the issue of the housing privatization cap, stating:

The President’s Budget included a request that would increase the military housing privatization cap from \$850 million to \$1.85 billion. This increase will help improve the quality of life of our military families by eliminating inadequate housing and allowing them the option to rent high-quality homes at prices covered by housing allowances. Furthermore, without this increase, the current limit would be reached by November 2004. OMB would not score any additional cost to this provision, because it does not increase the amount of budget authority available to the Department of Defense (DOD). Moreover, DOD does not need additional budget authority to cover the construction cost of these private projects. These projects receive private sector funding and are controlled and managed by private owners, and DOD does not require service members to live in the units and does not guarantee their occupancy. Any immediate costs to DOD associated with these contracts, such as credit subsidies or cash investments, are paid for out of funds appropriated to the Department’s housing accounts. Additional costs to the Department in the form of allowances paid to

³¹ (...continued)

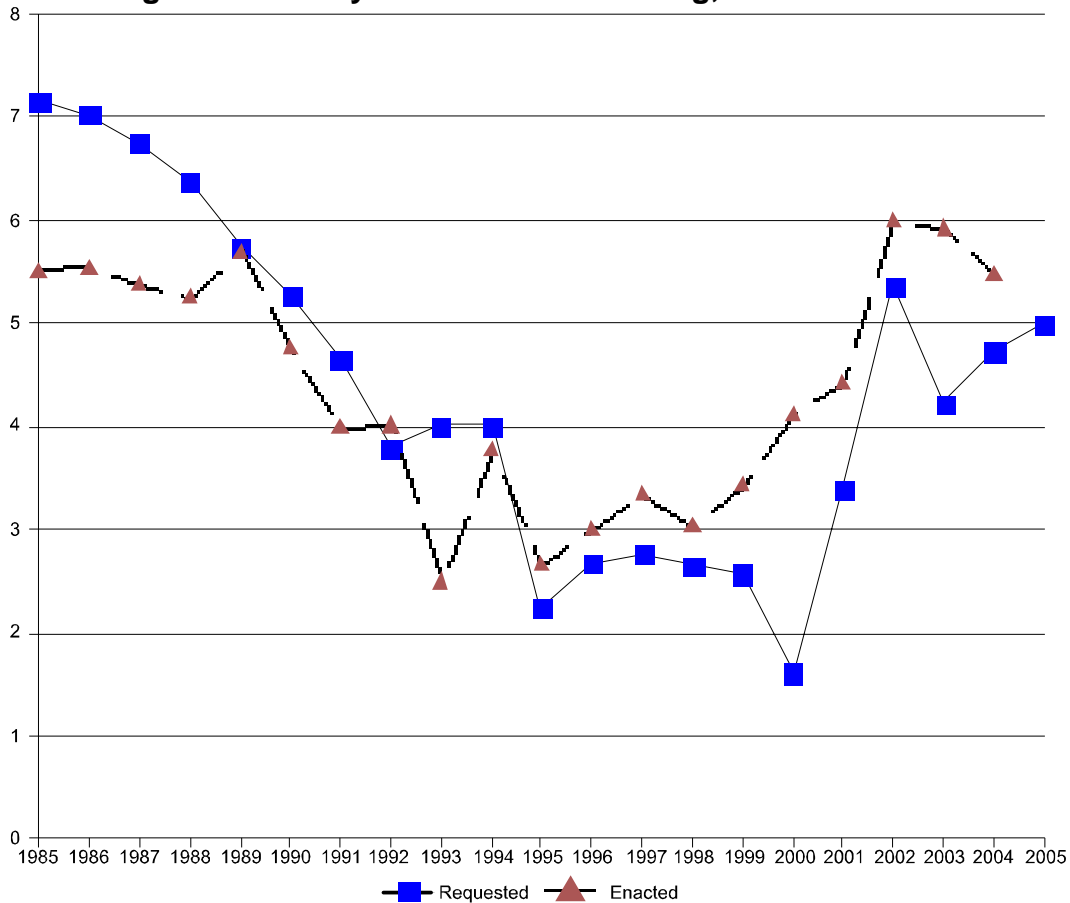
that are written into most partnering contracts. These can permit the Department of Defense to direct or influence business operations, control occupancy and access to housing (physical and contractual), and influence construction and management of the housing development. The CBO argues that the Department of Defense is the dominant source of project income because the housing is intended to be occupied by military families throughout its economic life and has the authority to contribute to the partnership itself by contributing land and housing units, providing cash contributions and direct loans, requiring rent payment by military tenants through pay allotment or by providing a single project-wide lump-sum payment per month, or by reserving units for military families.

service members are offset by avoidance of costs associated with building and maintenance of government housing. The Administration urges the Senate to either eliminate the cap or raise the cap to the requested \$1.85 billion, which is essential to meet the FY2007 DOD goal of eliminating inadequate housing units.³²

Significant Funding Trends

Between FY1985 and FY1998, funding devoted to military construction declined steadily as DOD and Congress struggled with a changing strategic environment, a shrinking military force, and the uncertainties associated with several rounds of base realignments and closures. Appropriations began to rise with FY1998 as Congress sought to replace outdated facilities and improve the quality of life for military personnel at home and in the workplace. Administration requests for military construction funding (not including BRAC and family housing) continued to decline until FY2000, but have risen for FY2001 and FY2002. The request for FY2005 rises above the level requested for FY2004, but falls short of projections made several years ago. In FY2001, DOD anticipated that its annual construction requests would approximately triple between FY2003 and FY2007, which would have led an observer to anticipate an FY2005 request approximately \$1 billion higher than that submitted (see **Figure 1**).

³² The Statement of Administration Policy can be found on the World Wide Web at [<http://www.whitehouse.gov/omb/legislative/sap/108-2/s2674sap-s.pdf>].

Figure 1. Military Construction Funding, FY1989-FY2005

Note: Does not include BRAC or Family Housing funding

Source: Department of Defense, *Financial Summary Tables*, successive years

Table 4 breaks down the FY2005 request by appropriations account and compares it to FY2004 enacted levels. **Table 5** shows congressional action on current military construction appropriations by account. **Table 6** compares Administration military construction requests and enactments for Guard and Reserve projects from FY1995 to FY2005.

Several issues were singled out for special attention in the appropriations committee reports. Among these were the inadequacy of Department requests for sustainment, restoration, and modernization funds and the inappropriate use of unprogrammed minor construction funding.

The House Appropriations Committee noted the long-standing tension between funds needed for construction of new buildings and the funds that are dedicated to the maintenance of existing facilities. The former is funded through the military construction appropriation, while the latter is supported by sustainment, restoration, and modernization (SRM) accounts in the national defense appropriation. The committee remarked that the majority of military installations are rated by the

services at the lowest two of four possible facility readiness grades (C-3 and C-4), while SRM appropriations are often diverted to support base operations.³³

The Senate Appropriations Committee highlighted what it determined to be the inappropriate use of minor construction funds for construction not authorized by congressional committees. According to 10 U.S.C. 2805, the Secretary of Defense is permitted to initiate construction projects that have not been either authorized or specifically appropriated for using funds in what is referred to as the “unspecified minor construction” appropriation account. This authority is intended for use only under circumstances where the need for construction could not have been foreseen in time to request an appropriation through the normal process and, in the case where such construction would correct a deficiency that threatens life, health, or safety; authority is limited to projects that will cost \$3 million or less.³⁴ The committee observed that in the period since September 11, 2001, this authority has been frequently used to justify projects, such as gates, inspection facilities, and even a firing range, that are primarily intended as anti-terrorism/force protection measures, all of which should by now be readily identifiable sufficiently far in advance to appear in the normal appropriation process.³⁵

Legislation

Military Construction Appropriations

H.R. 4837 (Knollenberg). 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. The House Committee on Appropriations, Subcommittee on Military Construction, held nine hearings between February 25 and June 22, 2004. The subcommittee reported its mark of the bill by voice vote to the full committee on July 6, 2004. The full committee mark was completed, also by voice vote, on July 9, and the committee reported its bill on July 15 (H.Rept. 108-607, CR H5907). The bill was then placed on the Union Calendar, Calendar No. 365.

The House Committee on Appropriations, in its report accompanying its mark of the Military Construction Appropriations Act, endorsed the privatization efforts of the Department of Defense, stating, “The Committee therefore strongly supports current efforts to raise or eliminate the budgetary cap on MHPI and address scoring methodology changes proposed by CBO”³⁶ (see the “Military Housing Privatization Budget Authority Cap” portion of the *Key Policy Issues* section above). Section 129 of its reported bill, H.R. 4837, would have increased the 10 U.S.C. 2883(g)(1) limit on available budget authority from \$850 million to \$1.35 billion and would exempt

³³ H.Rept 108-607, pp. 8-9.

³⁴ In other cases, the project cost cap is \$1.5 million.

³⁵ S.Rept. 108-309, pp. 10-12.

³⁶ H.Rept. 108-607, pg. 8.

the funds from scoring for purposes of the Congressional Budget and Impoundment Control Act of 1974. This language, appearing in an appropriations bill, presented several procedural challenges to existing House rules, though the Rules Committee had waived all relevant points of order except a potential Rule XXI (legislating in an appropriations bill) challenge to Section 129.³⁷

Debate on H.R. 4837 began on July 21 (*Congressional Record*, H6460-6469). Later that day, Mr. Nussle introduced a separate bill, H.R. 4879, that would raise the budget authority cap without invoking questions of Committee of the Budget jurisdiction. This measure passed on a vote of 423-0-11 (Roll no. 406, *Congressional Record*, H6489-95, H6498).³⁸ H.R. 4837 was again considered on July 22 (*Congressional Record*, H6660-6675), when Mr. Nussle raised a Rule XXI point of order against Section 129. He was sustained by the Chair, striking the section from the bill (*Congressional Record* H6667). Mr. Obey then made two motions to recommit the bill to committee with instructions, neither of which was successful, and the amended bill was passed on a vote of 420-1-13 (Roll No. 417).

The Senate replaced the original language of H.R. 4837 with that of S. 2674 on September 15, passing the amended bill on September 20, with a vote of 91-0-9 (Record Vote No. 185) and appointed its conferees. The Senate transmitted a message on its action to the House on September 22, 2004.

On October 8, the House agreed without objection to disagree with the Senate amendment and appointed its conferees.

The conferees added Division B, the *Emergency Supplemental Appropriations for Hurricane Disasters Assistance Act, 2005*, and Division C, the *Alaska Natural Gas Pipeline Act*, to the basic bill,³⁹ filing the conference report (H.Rept. 108-773,

³⁷ Section 129 was inserted in the bill during its full committee mark, after the subcommittee had committed the entirety of its 302(b) budget authority allocation. Section 302(f) of the Congressional Budget and Impoundment Act of 1974 prohibits consideration of legislation providing new budget authority in excess of a subcommittee's 302(b) allocation. Section 306 of the same Act prohibits consideration of legislation considered to be within the jurisdiction of the Committee on the Budget unless it is reported by that committee. This bill was not reported by the Committee on the Budget. The rule accompanying the bill, H.Res. 732, waived all points of order against consideration of H.R. 4837 regarding these two provisions of law.

However, Clause 2 of House Rule XXI prohibits unauthorized appropriations or legislative provisions in an appropriations bill. H.Res. 732 waived all points of order against consideration of the bill that would be based on this clause except for Section 129. The rule's resolution states, "Points of order against provisions in the bill for failure to comply with clause 2 of rule XXI are waived except: section 129." During consideration of H.Res. 732 by the Rules Committee, Mr. Frost moved to waive all points of order against Section 129. The motion was defeated by a vote of 3-7 (Rules Committee record vote no. 312), leaving H.R. 4837 vulnerable to a Rule XXI point of order challenge.

³⁸ H.R. 4879 was received by the Senate on July 22. On September 7, the bill was referred to the Senate Committee on Armed Services.

³⁹ For more information on the *Emergency Supplemental Appropriations for Hurricane* (continued...)

text at *Congressional Record* H9054-9113) on October 9. The House considered the report (*Congressional Record* H9175-9176) and agreed by the Yeas and Nays, 374-0-58 (Roll no. 529). That same day, the Senate began consideration on the conference report, and a cloture motion was presented (*Congressional Record* S10978-10979). The cloture motion was withdrawn by unanimous consent on October 11, and the Senate agreed to the conference report by Voice Vote (*Congressional Record* S11223-11228).

The bill was presented to the President and signed on October 13, 2004 (P.L. 108-324).

S. 2674 (Hutchison). An original bill making appropriations for military construction, family housing, and base realignment and closure for DOD for the fiscal year ending September 30, 2005, and for other purposes. The Senate Committee on Appropriations Subcommittee on Military Construction held the first of its annual series of hearings on the Defense-wide and Air Force appropriations requests on March 30, 2004. It held a hearing on the Army and Navy appropriations requests on April 7. After informal subcommittee markup, the full committee reported its bill on July 15, 2004 (S.Rept. 108-309, *Congressional Record* S8228). The bill was then placed on the Legislative Calendar under General Orders (Calendar No. 637).

S. 2674 was laid before the Senate on September 15, 2004. The Senate amended the text twice (S.Amdt. 3660 and 3661, *Congressional Record* S9242) by Unanimous Consent, returned it to the Calendar (Calendar No. 637), and incorporated its language into companion measure H.R. 4837. Subsequent action is described in the relevant section above.

H.J.Res. 107 (Young). Mr. Young introduced an emergency supplemental bill on September 28 that would enable the continued funding through November 20, 2004, of previously authorized military construction projects and operations at a rate consistent with that appropriated for Fiscal Year 2004. The House considered the measure on September 29 under the provisions of rule H.Res. 802 (*Congressional Record* H7778-7786). Mr. Obey moved to recommit with instructions to Appropriations (text and consideration, *Congressional Record* H7783-7785), but the motion to recommit with instructions failed by the Yeas and Nays: 200 - 221 (Roll No. 478). The bill then passed by recorded vote: 389 - 32 (Roll No. 479). The bill was received by the Senate on the same day, passed without amendment by Unanimous Consent (consideration, *Congressional Record* S9993), and cleared for the White House. The Senate sent a message on its action to the House on September

³⁹ (...continued)

Disasters Assistance Act, 2005, see CRS Report RL32581, *Assistance After Hurricanes and Other Disasters: FY2004 and FY2005 Supplemental Appropriations*, by (name redacted) and (name redacted). For an explanation of energy policy issues related to the *Alaska Natural Gas Pipeline Act*, see CRS Report RL32033, *Omnibus Energy Legislation (H.R. 6): Side-by-side Comparison of Non-tax Provisions*, by (name redacted) and (name redacted), coordinators, and CRS Report RL32315, *Oil and Gas Exploration and Development on Public Lands*, by (name redacted).

30, and the bill was presented to the President, who signed it into law the same day (P.L. 108-309).

H.R. 5212 (Young). Mr. Young introduced an emergency supplemental bill for hurricane disaster relief on October 5, 2004. The bill included \$148.9 million in construction and repair funding related to damage caused by Hurricanes Ivan and Jeanne (\$147.6 million to rebuild Ivan-damaged Navy and Army Reserve infrastructure at NAS Pensacola, Florida, and the remainder dedicated to repairing damage caused by Jeanne to the former Naval Station Roosevelt Roads and at Ft. Buchanan in Puerto Rico and Patrick AFB, Florida).⁴⁰ The bill passed the House by recorded vote 412-0-20 (Roll No. 501) on October 6 and was received in the Senate on October 7, 2004.⁴¹ The bill's language was incorporated into H.R. 4837 as *Division B* of the bill.

Defense Authorization

H.R. 4200 (Hunter, by request). To authorize appropriations for FY2005 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes. Introduced on April 22, 2004, and referred to the House Committee on Armed Services, it was further referred to the Subcommittees on Strategic Forces, Tactical Air and Land Forces, Readiness, Projection Forces, Total Force, and Terrorism, Unconventional Threats and Capabilities (several subcommittees held hearings prior to the introduction of the bill). The subcommittees completed markup and returned the bill to the full committee by May 6. The Subcommittee on Readiness, which exercises jurisdiction over the military construction portion of the authorization bill, inserted an amendment to the basic bill requiring the Department of Defense to complete and provide to Congress a series of reports related to the ongoing 2005 round of Base Realignment and Closure (BRAC) actions. These reports would be submitted by the end of calendar year 2005, and the amendment would bar the Department from taking any BRAC-related action until 18 months after the last report is delivered to Congress. The subcommittee approved the amendment by unanimous voice vote. The bill was reported out on May 14, 2004 (H.Rept. 108-491), and placed on the Union Calendar (Calendar No. 278). Brought to the floor on May 19, 2004, subject to a rule (H.Res.648). H.R. 4200 was debated, amended, and passed by recorded vote (391-34, Roll no. 206) on May 19 and 20.

The bill was received in the Senate on May 21, 2004, read twice, and placed on the Legislative Calendar under General Orders (Calendar No. 537). It was laid before the Senate by Unanimous Consent on June 24, 2004, whereupon the Senate struck all after the Enacting Clause and substituted the language of S. 2400. The bill then passed with an amendment by Unanimous Consent on the same day (*Congressional*

⁴⁰ The Administration's request can be found online at [http://www.whitehouse.gov/omb/budget/amendments/supplemental_10_5_04.pdf].

⁴¹ For additional detailed information on this and other disaster assistance supplemental appropriations, see CRS Report RL32581, *Assistance After Hurricanes and Other Disasters: FY2004 and FY2005 Supplemental Appropriations*, by (name redacted) and (name redacted).

Record, S7300). The Senate then insisted on its amendment and appointed conferees, sending a message to the House informing it of its action on July 6, 2004. Conferees met between September 29 and October 8, 2004.

The conferees filed their report (H.Rept. 108-767, text in *Congressional Record* H9187-9683) in the House on October 8. Mr. Hunter brought up the report for consideration under the provisions of H.Res. 843 the same day (*Congressional Record* H8995-9007). The House agreed by the Yeas and Nays: 359-14-59 (Roll no. 528, *Congressional Record* H9175) on October 9.

The Senate agreed to the conference report by Unanimous Consent (Congressional Record S10945-10954) on October 9, 2004.

The bill was presented to the President on October 21, and signed into law on October 28, 2004 (P.L. 108-375).

S. 2400 (Warner). An original bill to authorize appropriations for FY2005 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Services, and for other purposes. Ordered to be reported from the Committee on Armed Services as an original measure on May 6, 2004. The original bill was reported to the Senate from the Committee by Senator Warner on May 11 (S.Rept. 108-260, with additional views). Laid before the Senate by Unanimous Consent on May 17, 2004. Debated on the Senate floor between May 17 and June 23, 2004. Passed the Senate with amendments on June 23 by Yea-Nay vote (97-0, Record Vote No. 146). Incorporated by the Senate into H.R. 4200 as an amendment in the nature of a substitute.⁴²

⁴² See H.R. 4200 for further action.

**Table 4. Military Construction Appropriations by Account:
FY2004-FY2005**

(new budget authority in thousands of dollars)

Account	FY2004 Enacted*	FY2005 Request†	Difference
MilCon, Army	1,426,724	1,771,285	344,561
MilCon, Navy	1,238,366	1,060,455	(177,911)
MilCon, Air Force	1,337,301	663,964	(673,337)
MilCon, Defense-wide	581,347	709,337	127,990
Total: Active Components	4,583,738	4,205,041	(378,697)
MilCon, Army National Guard	311,592	295,657	(15,935)
MilCon, Air National Guard	222,908	127,368	(95,540)
MilCon, Army Reserve	88,451	87,070	(1,381)
MilCon, Navy Reserve	45,498	25,285	(20,213)
MilCon, Air Force Reserve	62,032	84,556	22,524
Total: Reserve Components	730,481	619,936	(110,545)
Total: Military Construction	5,314,219	4,824,977	(489,242)
NATO Security Investment Program	161,300	165,800	4,500
Family Housing Const., Army	289,440	636,099	346,659
Family Housing Operation & Debt, Army	1,044,446	928,907	(115,539)
Family Housing Const., Navy & Marine Corps	143,685	139,107	(4,578)
Family Housing Operation & Debt, Navy & Marine Corps	841,358	704,504	(136,854)
Family Housing Const., AF	637,718	846,959	209,241
Family Housing Operation & Debt, AF	823,055	863,896	40,841
Family Housing Const., Def-wide	350	49	(301)
Family Housing Operation & Debt, Def-wide	49,440	49,575	135
DOD Family Housing Improvement Fund	(9,392)	2,500	11,892
Total: Family Housing	3,820,100	4,171,596	351,496
Chemical Demilitarization	119,815	81,886	(37,929)
Total: BRAC Acct.	370,427	246,116	(124,311)
General Provision (Sec. 118)‡	55,000	63,000	8,000
GRAND TOTAL, New BA	9,666,046	9,553,375	(112,671)

Source: Department of Defense.

*: FY2004 Enacted amounts reflect the original new budget authority enacted in the Military Construction Appropriations Act for Fiscal Year 2004 as subsequently adjusted by rescissions and emergency appropriations (P.L. 108-106).

†: FY2005 Request includes \$30 million in three Army National Guard aviation-related construction projects added in May 2004 subsequent to the cancellation of the RAH-64 *Comanche* helicopter program.

‡: Sec. 118 refers to the transfer of expired funds into the "Foreign Currency Fluctuations, Construction, Defense" account, where they become available for expenditure as new appropriations.

Table 5. Military Construction FY2005 Appropriations by Account: Congressional Action
(in thousands of dollars)

Account	FY2005 Request	House Bill	Senate Bill	Conference
MilCon, Army	1,771,285	1,862,854	1,977,166	1,962,108
MilCon, Navy	1,060,455	1,081,042	1,016,315	1,045,947
MilCon, Air Force	663,964	797,865	841,131	844,531
MilCon, Defense-wide	709,337	718,837	696,491	663,318
Total: Active Components	4,205,041	4,460,598	4,531,103	4,515,904
MilCon, Army Nat'l. Guard	295,657	394,100	381,765	446,748
MilCon, Air National Guard	127,368	180,533	231,083	238,043
MilCon, Army Reserve	87,070	116,521	66,325	92,377
MilCon, Naval Reserve	25,285	30,955	33,735	44,246
MilCon, Air Force Reserve	84,556	111,725	101,373	123,977
Total: Reserve Components	619,936	833,834	814,281	945,391
Total: Military Construction	4,824,977	5,294,432	5,345,384	5,461,295
NATO Security Investment Program	165,800	165,800	165,800	160,800
Family Housing Const., Army	636,099	636,099	636,099	615,099
Family Housing Ops & Maint, Army	928,907	926,507	928,907	926,507
Family Housing Const., Navy & Marine Corps	139,107	139,107	139,107	126,806
Family Housing Ops & Maint, Navy & Marine Corps	704,504	696,304	704,504	696,304
Family Housing Const., Air Force	846,959	846,959	846,959	801,788
Family Housing Ops & Maint, Air Force	863,896	854,666	856,114	853,384
Family Housing Const, Defense-wide	49	49	49	49
Family Housing Ops & Maint, Defense-wide	49,575	49,575	49,575	49,575
DOD Family Housing Improvement Fund	2,500	2,500	2,500	(16,609)
Total: Family Housing	4,171,596	4,151,766	4,163,814	4,052,903
Chemical Demilitarization	81,886	81,886	81,886	81,886
BRAC Acct.	246,116	246,116	246,116	246,116
General Provision (Sec. 118)	63,000	63,000	0	0
GRAND TOTAL, New BA	9,553,375	10,003,000	10,003,000	10,003,000

Sources: H.Rept. 108-607, S.Rept. 108-309, H.Rept. 108-773.

Table 6. Congressional Additions to Annual DOD Budget Requests for National Guard and Reserve Military Construction, FY1995-FY2005
(current year dollars in thousands)

Fiscal Year	Army National Guard	Air National Guard	Army Reserve	Naval Reserve	Air Force Reserve	Total	Total Change from Request
1995 Req.	9,929	122,770	7,910	2,355	28,190	171,154	—
1995 Enacted	187,500	248,591	57,193	22,748	56,958	572,990	+401,836
1996 Req.	18,480	85,647	42,963	7,920	27,002	182,012	—
1996 Enacted	137,110	171,272	72,728	19,055	36,482	436,647	+254,635
1997 Req.	7,600	75,394	48,459	10,983	51,655	194,091	—
1997 Enacted	78,086	189,855	55,543	37,579	52,805	413,868	+219,777
1998 Req.	45,098	60,225	39,112	13,921	14,530	172,886	—
1998 Enacted	102,499	190,444	55,453	26,659	15,030	390,085	+217,199
1999 Req.	47,675	34,761	71,287	15,271	10,535	179,529	—
1999 Enacted	144,903	185,701	102,119	31,621	34,371	498,715	+319,186
2000 Req.	57,402	73,300	77,626	14,953	27,320	250,601	—
2000 Enacted	236,228	262,360	110,764	28,310	64,071	701,733	+451,132
2001 Req.	59,130	50,179	81,713	16,103	14,851	221,976	—
2001 Enacted	285,587	203,381	108,499	61,931	36,510	695,908	+473,932
2002 Req.	267,389	149,072	111,404	33,641	53,732	615,238	—
2002 Enacted	400,994	250,530	165,136	51,676	74,013	942,349	+327,112
2003 Req.	101,595	62,406	58,779	58,671	37,976	319,427	—
2003 Enacted	241,377	203,813	100,554	74,921	85,826	706,491	+387,064
2004 Req.	168,298	60,430	68,478	28,032	44,312	369,550	—
2004 Enacted	311,592	222,908	88,451	45,498	62,032	730,481	+360,931
2005 Req.	295,657	127,368	87,070	25,285	84,556	619,936	—
2005 Conference	446,748	238,043	92,377	44,246	123,977	945,391	+325,455

Source: Department of Defense, *Financial Summary Tables*, successive years; H.Rept 108-773.

For Additional Information

CRS Products

CRS Report RL31810. *Appropriations for FY2004: Military Construction*, by Daniel Else.

CRS Report RL32305. *Authorization and Appropriations for FY2005: Defense*, by (name redacted) and (name redacted).

CRS Report RL31305. *Appropriations and Authorization for FY2003: Defense*, coordinated by (name redacted) and (name redacted).

CRS Report RL30002. *A Defense Budget Primer*, by (name redacted) and (name redacted).

CRS Report RL31039. *Military Housing Privatization Initiative: Background and Issues*, by (name redacted).

CRS Report RS21822. *Military Base Closures: DOD's 2005 Internal Selection Process*, by (name redacted) and (name redacted).

CRS Report RL32216. *Military Base Closures: Implementing the 2005 Round*, by (name redacted).

CRS Report RL30440. *Military Base Closures: Estimates of Costs and Savings*, by (name redacted).

CRS Report RL30051. *Military Base Closures: Agreement on a 2005 Round*, by (name redacted).

CRS Report RL31443. *The "Deeming Resolution": A Budget Enforcement Tool*, by (name redacted).

CRS Videotape MM70068. *Military Base Closures: DOD's Internal 2005 BRAC Selection Process*, by (name redacted) and (name redacted), available online at [http://www.crs.gov/products/multimedia/sem_bc-040422.shtml].

CRS Report RL32581. *Assistance After Hurricanes and Other Disasters: FY2004 and FY2005 Supplemental Appropriations*, by (name redacted) and (name redacted).

CRS Report RL32315. *Oil and Gas Exploration and Development on Public Lands*, by (name redacted)

Selected World Wide Websites

Legislative Branch Sites

House Committee on Appropriations
[<http://appropriations.house.gov/>]

Senate Committee on Appropriations
[<http://appropriations.senate.gov/>]

CRS Appropriations Products Guide
[<http://www.crs.gov/products/appropriations/apppage.shtml>]

CRS Multimedia Library
[<http://www.crs.gov/products/multimedia/multimedialibrary.shtml>]

Congressional Budget Office
[<http://www.cbo.gov/>]

General Accounting Office
[<http://www.gao.gov/>]

U.S. Department of Defense Sites

U.S. Department of Defense, Office of the Under Secretary of Defense (Comptroller),
FY2004 Budget Materials
[<http://www.dod.mil/comptroller/defbudget/fy2005/index.html>]

U.S. Department of Defense, Installations & Environment Home Page
[<http://www.acq.osd.mil/ie/>]

U.S. Department of Defense, Office of the Deputy Under Secretary of Defense
(Installations and Environment) Military Housing Privatization Program
[<http://www.acq.osd.mil/housing/>]

White House Sites

Executive Office of the President, Office of Management and Budget, Budget
Materials
[<http://www.whitehouse.gov/omb/budget/fy2005/>]

Office of Management & Budget
[<http://www.whitehouse.gov/omb/>]

EveryCRSReport.com

The Congressional Research Service (CRS) is a federal legislative branch agency, housed inside the Library of Congress, charged with providing the United States Congress non-partisan advice on issues that may come before Congress.

EveryCRSReport.com republishes CRS reports that are available to all Congressional staff. The reports are not classified, and Members of Congress routinely make individual reports available to the public.

Prior to our republication, we redacted names, phone numbers and email addresses of analysts who produced the reports. We also added this page to the report. We have not intentionally made any other changes to any report published on EveryCRSReport.com.

CRS reports, as a work of the United States government, are not subject to copyright protection in the United States. Any CRS report may be reproduced and distributed in its entirety without permission from CRS. However, as a CRS report may include copyrighted images or material from a third party, you may need to obtain permission of the copyright holder if you wish to copy or otherwise use copyrighted material.

Information in a CRS report should not be relied upon for purposes other than public understanding of information that has been provided by CRS to members of Congress in connection with CRS' institutional role.

EveryCRSReport.com is not a government website and is not affiliated with CRS. We do not claim copyright on any CRS report we have republished.