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112TH CONGRESS
2D SESSION

S. 3663

To reassert the proper role of Congress in closing or realigning military installations.

IN THE SENATE OF THE UNITED STATES

DECEMBER 6, 2012

Ms. SNOWE (for herself and Mr. BEGICH) introduced the following bill; which was read twice and referred to the Committee on Armed Services

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A BILL

To reassert the proper role of Congress in closing or realigning military installations.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. LIMITATIONS ON BASE CLOSURE AND REALIGNMENT ACTIVITIES AND CRITERIA FOR CERTAIN DECISIONS INVOLVING SUCH ACTIVITIES.

(a) FINDINGS.—Congress makes the following findings:

(1) In 2012, the Department of Defense requested additional rounds of defense base closure and realignment in 2013 and 2015.

(2) There have been five rounds of defense base closure and realignment (BRAC) in the last 25 years (1988, 1991, 1993, 1995, and 2005).

(3) Congress has not approved additional rounds of base closure and realignment to occur after 2005, and recognizes that the 2005 round incurred substantial costs that will not be offset by savings for nearly two decades.

(4) According to the Government Accountability Office, implementation of the 2005 round of defense base closure and realignment cost $35,100,000,000, or approximately $14,100,000,000 more than was estimated by the 2005 Base Closure and Realignment Commission.

(5) Furthermore, the Government Accountability Office has determined that the 2005 round of defense base closure and realignment will take 17 years before taxpayers realize net savings from the round.

(6) On March 8, 2012, defending the request for additional rounds of defense base closure and realignment in testimony before the Committee on

Armed Services of the House of Representatives, Dr. Dorothy Robyn, Deputy Undersecretary of Defense for Installations and Environment, asserted that the Department of Defense would close military installations using non-BRAC authorities, stating that ''if Congress does not authorize additional BRAC rounds the department will be forced to use its existing authorities to begin to realign and close bases''.

(7) The Department of Defense may close or realign bases only if a round of defense base closure and realignment is carried out in compliance with sections 2687 and 993 of title 10, United States Code.

(8) Section 2687 of title 10, United States Code, contains ambiguous language, leading the Department of Defense to pursue significant closures and realignments without congressional approval or an authorization for a round of defense base closure and realignment.

(9) Sections 2687 and 993 of title 10, United States Code, contain single action limits on reductions that are too easily circumvented by cumulative actions.

(10) As demonstrated by BRAC and other closure and realignment actions, base closures and re-

alignments can have significant effects on Department of Defense functions, current and future operational capabilities, and on host communities and States.

(11) Recommendations for closures and realignments should be carried out only with the consent of Congress, which has the constitutional responsibility to ''raise and support Armies,'' ''provide and maintain a Navy,'' ''make Rules for the Government and Regulation of the land and naval Forces,'' and ''provide for organizing, arming, and disciplining, the Militia, and for governing such Part of them as may be employed in the Service of the United States''.

(b) LIMITATIONS ON BASE CLOSURE AND REALIGNMENT ACTIVITIES.—Section 2687 of title 10, United States Code, is amended—

(1) in subsection (a)—

(A) in paragraph (1), by striking ''at which at least 300 civilian personnel are authorized to be employed'';

(B) by amending paragraph (2) to read as follows:

''(2) any realignment with respect to any military installation involving a reduction in the number of military and civilian personnel authorized to be

employed at such military installation at the time the Secretary of Defense notifies Congress under subsection (b) of the Secretary's proposal to close or realign such installation by more than the lesser of—

"(A) 100; or

"(B) 50 percent of the highest number of military and civilian personnel assigned to such installation during any of the previous 4 years; or"; and

(C) in paragraph (3)—

(i) by striking "other than a military installation referred to in clause (1) or (2)";

(ii) by inserting "military or" before "civilian personnel"; and

(iii) by striking "to which clause (1) or (2)" and inserting "to which paragraph (1) or (2)";

(2) in subsection (b)—

(A) by striking "referred to in such subsection";

(B) in paragraph (1)—

(i) by striking "or the Secretary of the military department concerned";

(ii) by redesignating subparagraphs (A) and (B) as subparagraphs (B) and (D), respectively;

(iii) by inserting before subparagraph (B), as redesignated by clause (ii), the following new subparagraph:

''(A) a justification for the proposed action;'';

(iv) in subparagraph (B), as so redesignated, by striking ''; and'' and inserting a semicolon;

(v) by inserting after subparagraph (B), as so redesignated, the following new subparagraph:

''(C) a description of the alternatives considered;'';

(vi) in clause (ii) of subparagraph (D), as so redesignated, by striking ''; and'' and inserting a semicolon; and

(vii) by inserting after subparagraph (D), as so redesignated, the following new subparagraphs:

''(E) an estimate of the number of military, civilian, and contractor personnel affected by the proposed action; and

"(F) a plan to provide support for affected communities; and"; and

(C) by amending paragraph (2) to read as follows:

"(2) Congress has enacted legislation expressly authorizing the action.";

(3) in subsection (c)—

(A) by striking "shall not apply to the closure" and inserting the following: "shall not apply—

"(1) to the closure";

(B) by striking "or a military emergency." and inserting "or a military emergency; or"; and

(C) by adding at the end the following new paragraph:

"(2) to the relocation from a military installation of personnel or functions that are required to support the deployment of members of the armed forces, provided that such personnel and functions are returned to the military installation after the deployment.";

(4) in subsection (d), by striking "(1) After the expiration" and all that follows through "(2) Noth-

ing in this section'' and inserting ''Nothing in this section'';

(5) in subsection (e)—

(A) in paragraph (1), by inserting ''and any public land under Bureau of Land Management control that is withdrawn and reserved for military training and testing'' after ''including any leased facility'';

(B) by amending paragraph (3) to read as follows:

''(3) The term 'realignment' includes any action or combination of actions within a 4-year period that reduces or relocates functions and military or civilian personnel positions, but does not include a reduction in force resulting from a reduction in military end strength levels or a reduction in total civilian personnel levels.'';

(C) by striking paragraph (4); and

(D) by adding at the end the following new paragraph:

''(4) The term 'closure' includes any action or combination of actions that results in the elimination of all active functions at a military installation, the elimination of all military and civilian personnel po-

sitions at a military installation, or the placement of a military installation into non-active status.''; and

(6) by adding at the end the following new subsections:

''(g) For purposes of this section, the component bases of a joint base shall be considered as independent military installations, and not collectively as a single military installation.

''(h) For purposes of this section, any leased space in which more than 300 combined military and civilian personnel are housed shall be considered to be an independent military installation, and shall not be considered part of a larger military installation. Functions and personnel located at a leased space may be transferred to another leased space located within 50 miles or to the nearest military installation located within 50 miles notwithstanding any limitations in this section.''.

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