



DEFENSE BASE CLOSURE AND REALIGNMENT COMMISSION

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Commissioners: The Honorable James H. Bilbray • The Honorable Philip E. Coyle III • Admirable Harold W. Gehman, Jr., USN (Ret.) • The Honorable James V. Hansen
General James T. Hill, USA (Ret.) • General Lloyd W. Newton, USAF (Ret.) • The Honorable Samuel K. Skinner • Brigadier General Sue Ellen Turner, USAF (Ret.)
Executive Director: Charles Battaglia

August 18, 2005

TRANSMITTAL MEMORANDUM

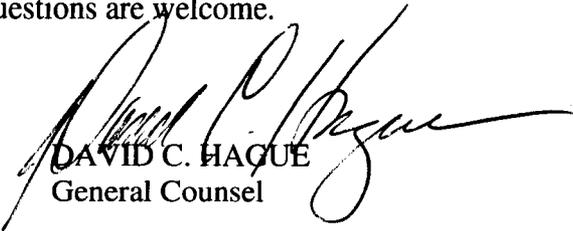
TO: Executive Director

FROM: Office of the General Counsel

SUBJECT: Proposed Changes to the 2005 BRAC Statute

1. Enclosed please find for insertion into the final report of the Commission to be transmitted to the President no later than September 8, 2005, a draft of the proposed legislative changes to the Defense Closure and Realignment Act of 1990, as amended. Explanatory highlights of the revised text are included for your review
2. As attachments, please find the revised legislative text (Tab A), the original 1990 BRAC statute (Tab B), and a mark-up of the revised text (Tab C). Ms. Sarkar of my office can provided you with a more detailed explanation of the proposed changes.
3. Members of the Senate Armed Forces Committee, former staff members of the 1995 BRAC round, and attorneys serving with the Department of the Army and Navy, respectively, were consulted. Internal review has taken place with the report writers.

It is expected that this section will be inserted into an appendix of the Final Report, and your edits, changes and questions are welcome.


DAVID C. HAGUE
General Counsel

**PREFACE TO THE PROPOSED LEGISLATIVE CHANGES TO THE 2005
DEFENSE BASE CLOSURE AND REALIGNMENT ACT OF 1990, (PUBLIC LAW
101-510), AS CODIFIED AT 10 U.S.C. 2687 NOTE, AS AMENDED BY FY 2002
DEPARTMENT OF DEFENSE AUTHORIZATION ACT (PUBLIC LAW 107-107)**

The 2005 Defense Closure and Realignment (BRAC) Commission is including proposed legislative changes to the current statute, the 2005 Defense Base Closure and Realignment Act of 1990, as amended (the “BRAC statute”), in order to consolidate and conform related sections of the statute and eliminate redundancies and inconsistencies in the text. The discussion below provides a strategic overview of certain structural changes that have been proposed, and also suggests minor revisions in order to streamline and rationalize the BRAC process in the future.

A. STRATEGIC OVERVIEW:

- (1) Timing and Sequencing.** The foundation for the BRAC process is grounded in an overall strategic vision for a national defense strategy. The strategic backdrop for the 2005 BRAC round was based on the National Military Strategy (2004) that both supports the National Security Strategy (September 2002), and implements the National Defense Strategy (2004). Other key elements included the November 15, 2002 memorandum issued by the Secretary of Defense (the “Secretary”), “Transformation Through Base Realignment and Closure,” and the Department of Defense’s Integrated Global Posture and Basing Strategy (IGPBS) as set forth in the Department’s Report to Congress entitled, “Strengthening U.S. Global Defense Posture,” (September 2004).¹

Under Section 2912 of the current BRAC statute, the Secretary is required to certify the need for an additional BRAC round, as necessary, along with his submission of the Department of Defense (the “Department”) proposed budget for Fiscal Year 2005. This budget submission includes the force structure plan that is based on a 20-year threat assessment, and an infrastructure inventory.

¹ Indeed, Secretary Rumsfeld underscored the importance of linking the BRAC process to the global military basing posture by testifying before the Senate Armed Services Committee that:

The global posture decision process and Base Realignment and Closure (BRAC) are tightly linked, indeed, they depend on each other. They are both key components of the President’s transformation agenda, and they both will be critical instruments for stability in the lives of service members and their families. Together, they will help to provide more predictability in assignments and rotations.

Testimony of Secretary Rumsfeld Before the Senate Armed Services Committee, *Global Posture* (September 23, 2004).

In the view of the Commission, the threat assessment could be strengthened by requiring the Director of National Intelligence, in consultation with the Department and other defense intelligence agencies, to produce a separate, stand-alone threat assessment *before* the Department issues the force structure plan. If Congress adopts this approach as set forth in Section 2903(a)(1)(A)(i) of the proposed legislation, the threat assessment submitted by the Director of National Intelligence will permit Congress to obtain an independent view of the strategic threats confronting the nation which takes into account overarching military, economic and diplomatic factors. This will help broaden the analytic foundation for the Department's force structure plan, thereby strengthening the entire BRAC process.

In sum, while the force structure plan and the infrastructure inventory were very important tactical considerations in the 2005 BRAC round, the strategic considerations supporting the current BRAC process could have been strengthened if the 2005 Quadrennial Defense Review (QDR) had been in place.

Quadrennial Defense Review. Specifically, the 2005 QDR will be issued by the Secretary after the completion of the Commission's work, and the issuance of the BRAC's final recommendations to the President. In other words, the Commission's final recommendations are issued on September 8, 2005, and thus precede the Secretary's release of the QDR. The last QDR was issued on September 30, 2001, and the Secretary of Defense is statutorily required to submit a new QDR every four years. (*See* 10 U.S.C. § 118 (2005)). Thus, if the 2005 QDR is issued September 30, 2005, the BRAC Commission's work and recommendations will have been finalized and enacted into law (barring a joint resolution disapproving the recommendations of the Defense Base Closure and Realignment Commission), well before then.

The QDR is important in this context because the QDR is required to provide a comprehensive examination of several key elements, including the national defense strategy, force structure, force modernization plans, infrastructure, and budget plan of the defense program and policies of the Department of Defense, with a view to establishing the U.S. defense strategy and program for the next 20 years. Although the submission of the force structure plan and infrastructure inventory by the Secretary pursuant to Section 2912(a) of the current BRAC statute is designed to provide a concrete basis for the Commission's review, these are only a few elements of the overarching view provided by the QDR.

Since the BRAC Commission is also designed to eliminate excess force structure with a view to establish a realigned military force and infrastructure, a more comprehensive review of the underlying strategic issues that is to be set forth in the QDR may have better informed and assisted the Commission in making its final recommendations. This is particularly true since the Commission is tasked, as the QDR review is, with taking a 20-year prospective view of a national

defense strategy. The detailed and comprehensive approach of the QDR may have provided a more solid analytical foundation to the Commission's work.

Thus, if there is an additional BRAC round in the future, the Commission respectfully suggests that the QDR be put in place before the next round is initiated. Since the QDR is required by statute, it should be the first element in place in a domino of necessary actions triggering the next BRAC round.

Accordingly, in the proposed changes to the BRAC statute that follows, the timing and sequencing of initiating a new BRAC round hinges on the issuance of the QDR on September 30, 2009, as required by statute. Based on the expectation that the Secretary will submit the Department's budget submission for FY 2011 in February 2010, or thereabouts, the Secretary is required under the current statutory scheme to submit the force structure plan along with the budget. This element has been preserved in the proposed legislation.

While the draft legislation preserves the current law describing the elements of the force structure plan, it is very probable that it will change substantively in the future. Therefore, this language appears in the draft legislation, but it may easily be deleted and amended later to include a revised description of what the force structure plan should contain. Further, the draft legislation provides that the force structure plan may be finalized no later than October 1, 2010.

The proposed legislation then requires the Secretary to certify the need for a new round by March 15, 2010. This is followed by draft selection criteria being published in the *Federal Register* on April 15, 2010, with final criteria being released on June 30, 2010. The proposed revised Act also provides for amending it to include the new selection criteria.

The President will then be required under the proposed legislation to nominate the new Commissioners for an additional BRAC round no later than September 30, 2010. The BRAC list will then be required to be issued by the Secretary on November 30, 2010. A final report shall be issued by the Commission on June 30, 2011, giving the Commission, in effect, seven months in which to complete its work. This is in contrast to the current statutory scheme where the Commission had to produce its report to the President in less than four months from the Secretary's release of the BRAC list. The new timeline in the proposed legislation takes into consideration the difficulty of meeting the statutory deadlines during the 2005 BRAC round, and extends the timeframe in order for both the GAO and the Commission the opportunity to meet their internal timelines with greater ease. A full timeline of the entire BRAC process, as proposed, is set forth below in Section C.

In conclusion, the initiation of an additional BRAC round, the timing and sequencing of events, and the strategic foundation of the BRAC process has been modified by the proposed legislation to strengthen the BRAC process and facilitate the greater administrative ease of the Commission and the agencies involved, while preserving the salient elements of the overall statutory scheme.

- (2) **Extending the Life of the 2005 BRAC Commission.** Another difficulty faced by the 2005 BRAC Commission was meeting its staffing needs in a timely manner in order to fulfill its statutory duties. Since the 1995 BRAC Commission had been disbanded, there was no pre-existing support structure to manage the administrative start-up needs of the Commission such as recruiting and hiring, leasing space and equipment, and other issues. Since the Commission was already operating under a foreshortened timeframe, the complex task of establishing the Commission from the ground up was exceedingly difficult.

Thus, assuming that Congress does not enact a joint resolution disapproving the recommendations of the Defense Base Closure and Realignment Commission, the proposed legislation suggests keeping the Commission in place until December 31, 2011. This will allow two objectives to be met. First, it will keep a structured Commission in place (with a Chairman,² Executive Director, and a limited staff) to allow greater ease in assembling a new augmented BRAC staff should another round be initiated; and second, to permit the Commission to produce annual, special and final reports to Congress and the President on the implementation of the 2005 BRAC recommendations, as described in the proposed legislation. This will enable both the Department and Congress to better gauge the progress made on these recommendations and to determine whether further changes to the U.S. military basing posture need to be made in the future.

Further, the proposed legislation expands and clarifies the role of the Executive Director in new Section 2902(h). While the proposed legislation in Section 2902(d) permits the Commissioners to stay with the Commission for a period not to exceed 90 days from the date the final Commission report is submitted to the President (as may be modified), they are expected to depart. This means that the Commission will not have a full complement of eight Commissioners, excluding the Chairman, unless another BRAC round is authorized.

However, during that period and under the guidance of the Chairman, the Commission will be able to examine and report on implementation issues. This will provide, in effect, “one-stop shopping” for the Congress and the President in terms of tracking, monitoring and evaluating the effectiveness of the implementation of the 2005 BRAC Commission’s final recommendations. Although the Comptroller General of the United States and the Department’s

² If this approach is accepted and acted upon by Congress, please note that Section 2902((d)(2) of the current BRAC statute provides that, “The Chairman of the Commission shall serve until the confirmation of a successor.”

military service branches all have implementation responsibilities and in some cases, reporting requirements, this information is scattered, diffuse and uneven.

Reports. The annual and final reports of the Commission, if this new statutory scheme is accepted by Congress, will, *inter alia*, track and, where appropriate, monitor the following: (1) the uses of the Department of Defense Base Closure Account 2005 as described in section 2906A of the BRAC statute;³ (2) the implementation by each branch of the armed services of the recommendations made by the Commission, including any annual net savings thereof; (3) the implementation of privatizations-in-place by local redevelopment authorities or private entities; (4) the environmental remediation undertaken by the Department of Defense, and the costs thereof; and (5) the impact of closures or realignments on international treaty obligations of the United States, if any.

The tracking of the implementation of the 2005 BRAC round may be especially important since the Secretary issued 190 recommendations affecting 33 major military installations, each one of which involves a great deal of detailed movements of military missions, personnel and related functions. In fact, certain recommendations have conditions precedent attached to them whereby if the conditionality is not met by the concerned parties, the recommendation shall revert to the Secretary's original recommendation. There is no true oversight for this type of recommendation. Other examples include recommendations that may be the subject of third party litigation whose outcome has not been finally determined by the end of the BRAC process. Again, there is no tracking of this process to make a final determination on whether the Commission's recommendations were implemented or not.

Moreover, the number and complexity of the recommendations involved in the 2005 BRAC round make its implementation and the accountability for full implementation, including fiscal accountability, more difficult to achieve. If Congress entrusts the Commission to track the full implementation of the 2005 BRAC round, this will be a focused means of imposing accountability in the BRAC process on the Department, its service branches, the local redevelopment authorities, and other involved parties. Ultimately, this may be a significant cost-saving measure that will help ensure that further public resources are not devoted to making duplicative or conflicting recommendations in future BRAC rounds.

Special Report. Further, the proposed legislative language requires the Commission, presuming that Congress does not enact a joint resolution disapproving the recommendations of the 2005 BRAC Commission, to produce a

³ The proposed legislation does not advocate tracking the uses of the 1990 BRAC Account, as described in Section 2906 of the current BRAC statute, by the Commission. However, if in the view of Congress this would be a worthwhile endeavor, the scope of the proposed legislation could be expanded to cover this aspect of implementing the recommendations of prior BRAC rounds.

special report. If enacted by Congress, the Commission will be tasked with issuing, no later than June 30, 2007, a special report that describes an overall strategic approach to implementing BRAC closures and realignments.

(1) Local Redevelopment Authorities. In the first instance, military properties that are subject to closure (and partial realignment in certain cases) may be attractive for re-use or redevelopment purposes. In such cases, local redevelopment authorities may be given, for example, up to two years from actual closure to negotiate a satisfactory early transfer agreement with the Department and accept legal title in the property concerned. It is for this reason that the proposed legislation advocates making the existing two-year authority for the Department to enter into environmental cooperative agreements into a permanent authority. (*See* Section 2905(f)). However, once this two-year time period expires, the Department will no longer be required to work with or through the local redevelopment authority, and may seek other private sector partners with whom to enter into negotiations to transfer title and undertake other tasks.

If environmental clean-up or remediation, if required, is completed within a reasonable time period of say, five to seven years, then the Department may then enter into contracts with private environmental insurance carriers to mitigate its risk of financing further environmental clean-up if problems are discovered after the initial clean-up has been completed. Although the Department assumes full legal liability throughout the process and continues to remain legally liable after the environmental remediation process is completed, the use of private insurance may nevertheless mitigate its risk. The idea of developing an insurance program for the Department's use, and exploring the possibility of bundling policies for greater economic efficiencies, is one issue that may be explored by the Commission.

(2) Privatizations-in-Place. Another issue that may be the subject of the Commission's special report is to develop a financial "toolbox" for the Department to use in creating economic incentives to close, realign and otherwise dispose of properties that are the subject of the Commission's recommendations. This toolbox could include, for example, giving the Department special authorities to enter into contracts, leases, loans, loan guarantees and investments in the form of an acquisition of a limited partnership interest to purchase stock, equity positions or other equitable instruments, bonds or other debt instruments by the United States.

Indeed, forming strong public-private partnerships between the Department and private entities may facilitate the process of base closures. The Commission's special report could explore the feasibility of entering into such privatizations-in-place as a pilot program. If legislation for this were approved by Congress, with appropriate Congressional Notification requirements in place, this could be a pilot program limited to one service branch and a select number of military installations scheduled for closure under the 2005 BRAC round.

In fact, Congress could consider creating a separate government corporate entity to exercise these functions, and the Department, for example, could assign and transfer its title and interests in military installations scheduled for closure and realignment under this BRAC round to this stand-alone corporation. This would have the effect of shifting legal title (if not its actual legal liability for environmental remediation) from the Department to this new corporate entity. The Department will also be relieved of the burden of the day-to-day management of these military properties.

This financial “toolbox” may provide structured finance options that can be used to support the environmental remediation and transfers of closed military installations to the private sector. For example, if the Department is prepared to remediate the military property in question to meet industrial use standards yet the local community would like to rezone it for residential use, the Department may find it very useful to have a “financial toolbox” available to it. In that situation, the Department may seek to enter into public-private partnerships to finance (through the issuance of environmental bonds or other options) the additional clean-up costs.

By sourcing a private developer that is willing to assume greater commercial risk than a local redevelopment authority, the Department may be authorized by Congress to enter into a limited liability corporate structure that will enable it to seek private financing to issue bonds or other debt (or even equity) instruments. The bond proceeds (held by a trustee) may finance the excess clean-up costs and create an income stream to qualified institutional investors once the property starts to generate income from commercial and/or residential uses.

For example, both the States of New York and Pennsylvania have issued state-issued municipal Superfund bonds and brownfield bonds to encourage public participation in the clean-up of superfund sites. In the 2005 BRAC rounds, at least 14 of the military installations are National Priorities List (NPL) sites. Perhaps the Commission’s special report could explore the feasibility of issuing tax-free revenue Superfund environmental bonds. Indeed, tax credits for such bond purchases may already be available for this purpose.

The Department could also be authorized to issue loan guarantees to enable the private developer to obtain better terms (i.e., interest rates and repayment terms) on financing such a redevelopment project. Title to the property could be assumed by the limited liability, special purpose venture established for this purpose. The Department could also, via the special purpose vehicle, take an equity position in the venture as an additional financing option. This are but a few of the options that may be considered by the Commission in enlarging the financial “toolbox” made available for the Department’s use in implementing 2005 BRAC closures and realignments.

(3) Establishing a Trusteeship. Finally, for military properties that are scheduled for closure or realignment in this round, or that have failed to close from previous BRAC rounds, the Commission's special report could explore the possibility of setting up an independent trusteeship to function as a receivership. The trusteeship could help prevent encroachment on these "challenged" military properties that have unexploded ordinances on them, or chemical and other dangerous weapons that have not been demilitarized. While it may be unlikely that such properties can ever be readied or transfer to the public domain or for private use, a trusteeship to manage these properties for conservation or related purposes may be an option to further the BRAC process.

Moreover, the trusteeship, if established, may assume legal title from the Department (e.g., the Army) and assume land management and conservation responsibilities, in coordination with the Bureau of Land Management, Department of the Interior, as necessary. This, of course, is a long-term (if not permanent) commitment and a corporate structure that exceeds the current authority of the Commission would have to be established by Congress in order for such an arrangement to be possible.

International Treaty Obligations. On a different note, one other aspect that seems to be ignored in the BRAC process is tracking the compliance of the United States with its international treaty obligations as it may be impacted by the BRAC process. In certain cases, closures and demilitarization of chemical and other weapons are actually being executed pursuant to international treaty obligations. The proposed legislation advocates coordination between the Commission and the Arms Control and Disarmament Agency (ACDA) to help track, monitor and report on the interface of such international obligations with the BRAC process. This report will provide Congress with a fuller picture of the underlying international law issues and aspects that may be connected to the BRAC process.

B. TACTICAL CONCERNS: Finally, some elements of the current BRAC statute, e.g., a supermajority vote of the Commissioners to add military installations for consideration, and to add to the Secretary's list of recommended closures or realignments, have been retained. However, the proposed language does address some concerns that specifically derived from the 2005 BRAC round.

Most importantly, if the Department does not release the certified data justifying the recommendations in a timely fashion, the BRAC process will automatically terminate. (*See* Section 2903(2)(B)). This proved to be a difficult issue in the 2005 BRAC round that had a deleterious effect on the Commission completing its analysis underlying its recommendations in a timely manner. The Commission has also been granted subpoena power in case it cannot procure the information it needs by other means. (*See* Section 2902(q)).

The draft legislation makes the Commission's General Counsel its sole ethics counselor, thus, eliminating the need for the Office of Government Ethics, the Department's Office of the General Counsel, and the White House Counsel's office to provide ethics support to the Commission when Commissioners are being nominated, and afterwards. Since the Commission will have a General Counsel on staff, there should be no need to use outside sources of ethics counseling.

Under the proposed legislation, the new BRAC Commission will be exempt from the Federal Advisory Committee Act, but will conform to the requirements, in substance, of the Freedom of Information Act and the Government in the Sunshine Act. (See Sections 2902 (n), (o) and (e)).

In sum, the draft proposed legislation is designed to eliminate redundancies and inconsistencies and to consolidate the current legislation. The proposed legislation, by tasking the Commission with producing a special report to Congress, explores the options of providing more financial flexibility to the Department in implementing 2005 BRAC round recommendations. Finally, the proposed legislative revisions address strategic and tactical concerns, and enlarge the scope of the advisory function of the Commission. Overall, these changes are being proposed with a view towards ensuring greater accountability and transparency in the BRAC process for Congress and the general public.

C. TIMELINE OF A FUTURE 2011 BRAC PROCESS

30 September 2009	Secretary Issues the QDR
31 January 2010	Director of National Intelligence Issues Threat Assessment Report
February 27, 2010	Secretary Submits Budget, with Force Structure and Infrastructure Inventory
15 March 2010	Secretary Certification for Additional BRAC Round
15 April 2010	Secretary Publishes Draft Selection Criteria Published in <i>Federal Register</i>
30 May 2010	GAO Report on Force Structure
30 June 2010	Final Selection Criteria Published in <i>Federal Register</i>
30 September 2010	President Nominates BRAC Commissioners, or BRAC Process Terminates
01 October 2010	Secretary Submits Final Version of Force Structure Plan
30 November 2010	Secretary Issues BRAC List
7 December 2010	Secretary Issues Certified Data, or BRAC Process Terminates
15 January 2011	GAO Transmits Report on BRAC List to Congress and the BRAC Commission
30 June 2011	BRAC Commission Issues Report
15 July 2011	President Approves/Disapproves of Commission's Recommendations, and Informs Congress
45 Legislative Days	If BRAC Recommendations Are Approved by the President, Congress May Issue a Vote of Disapproval and the BRAC Process Terminates
15 August 2011	If BRAC Recommendations Are Disapproved by President, Commission Submits Revised Recommendations to the President
30 August 2011	President Transmits Revised Recommendations to Congress, or the BRAC Process Terminates
45 Legislative Days	If BRAC Recommendations Are Approved by the President, Congress May Issue a Vote of Disapproval, and the BRAC Process Terminates



DRAFT PROPOSED LEGISLATIVE CHANGES TO THE 2005 DEFENSE BASE CLOSURE AND REALIGNMENT ACT OF 1990, (PUBLIC LAW 101-510), AS CODIFIED AT 10 U.S.C. 2687 NOTE, AS AMENDED BY FY 2002 DEPARTMENT OF DEFENSE AUTHORIZATION ACT (PUBLIC LAW 107-107)

To amend the Defense Closure and Realignment Act of 1990 to provide for the continuance of the Commission established therein, and to expand its authorities and functions.

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

The Defense Base Closure and Realignment Act of 1990 is amended ---

‘SECTION 2901. SHORT TITLE AND PURPOSE.

- (a) **SHORT TITLE.** By striking ‘This part may be cited as the "Defense Base Closure and Realignment Act of 1990’ and inserting ‘This Act may be cited as the “Defense Base Realignment and Closure Authorization Act of 2006.”’

‘SECTION 2902. THE COMMISSION

In section (a) **ESTABLISHMENT.**—By striking ““Defense Base Closure and Realignment Commission”” and inserting ““Defense Base Realignment and Closure Commission.””

In section (c) **APPOINTMENT.**--(1)(A) By renumbering it as section (1) and striking ‘eight members’ and inserting ‘nine members,’ and by deleting section (1)(B) and section (1)(C). In section (c)(3) by striking ‘for each session of Congress referred to in paragraph (1)(B).’ In section (c) by inserting a new provision, ‘(c)(4) The General Counsel of the Commission shall provide exclusive ethics guidance and counseling to the Chairman and the Commissioners before, during and after the nomination process. The General Counsel shall also have all other duties appurtenant to the office.’

In section (d) **TERMS.**—By deleting it and replacing it with ‘Each member of the Commission, not including the Chairman, shall serve up to 90 days from the date of submitting the Commission’s report to the President, unless reappointed.’

(e) **MEETINGS.**--(1) By deleting this subsection, and renumbering the following section as ‘(1)(A)’ and inserting ‘If another round is authorized pursuant to section 2903, the Commission shall conduct meetings and hearings open to the public, unless the Chairman determines that such hearings should be closed to the public for reasons of national security. The Commission shall issue public notices of its meetings and hearings by publication in the *Federal Register* not less than ten days before the dates or such meetings and hearings, except for emergency meetings in which case notice may be

issued not less than three days before the date of such a meeting with an explanation on why an emergency meeting is necessary under the circumstances. Where such meetings or hearings are closed to the public, the public notice shall specify the reasons therefor. All testimony presented at open public hearings before the Commission shall be made under oath. Official transcripts, certified by the Chairman, of such public meetings and hearings shall be made available to the public within 90 days of the meeting or hearing taking place.'

(h) **DIRECTOR OF STAFF.**—By inserting '(h)(3) The Director shall be authorized to continue performing the duties of the office until the termination of the Commission, and may designate the necessary staff of not more than 50 persons, to conduct the affairs of the Commission as long as Congress fails to enact a joint resolution of disapproval as provided in Section 2904(b).'

'(h)(4) The Director may request the head of any Federal department or agency to detail any of the personnel of that department or agency to the Commission to assist the Commission in carrying out its duties under this Act, and shall request the Comptroller General of the United States, the head of the Environmental Protection Agency (EPA) and the head of the Arms Control and Disarmament Agency (ACDA) to detail one or more employees, at the Director's discretion, to assist the Commission in discharging its duties, pursuant to an agreement entered into by the Comptroller General of the United States, EPA and ACDA, respectively, with the Commission. The detailee(s) assigned by the Comptroller General of the United States shall be responsible for tracking and monitoring, as appropriate, uses of the Department of Defense Base Closure Account 2005, as set forth in section 2906A; the EPA detailee(s) shall be responsible for tracking and monitoring, as appropriate, environmental restoration, remediation and compliance, as set forth in section 2905; and the ACDA detailee(s) shall monitor compliance of international treaty obligations of the United States as may be affected by realignments and closures recommended by the Commission.'

(i) **STAFF.**—by deleting (i)(5) and (i)(6).

(k) **FUNDING.**--(1) By striking 'part' and inserting 'Act.'

(2) By deleting (k)(2) and inserting 'If no funds are appropriated to the Commission by the end of the second session of the 112th Congress for the activities of the Commission in 2011, the Secretary may transfer to the Commission for purposes of its activities until its termination, as specified in this part, such funds as the Commission may require to carry out such activities. The Secretary may transfer these funds from any funds that may be available to the Secretary. Funds so transferred shall remain available until expended.'

(3) By deleting (k)(3) and inserting 'If another round is authorized, there are authorized to be appropriated to the Commission such funds as are necessary to carry out its duties. Such funds shall remain available until expended.'

(l) **TERMINATION.**-- by striking 'shall terminate on December 31, 1995' and inserting 'shall terminate on December 31, 2011, or six years from the expiration of time in which Congress may enact a joint resolution of disapproval as provided in section 2904(b), whichever is later, unless an additional round is authorized by Congress under section 2903.'

In Section 2902, by inserting 'SECTION 2902(n). **EXEMPTION FROM FACIA.** The Commission shall be exempt from the Federal Advisory Committee Act, 5 U.S.C. app. (2005).'

In Section 2902, by inserting 'SECTION 2902(o). **RECORDS AND RECORDKEEPING.** (1) The records, reports, transcripts, minutes, correspondence, working papers, drafts, studies or other documents that were furnished to or made available to the Commission shall be available for public inspection and copying at one or more locations to be designated by the Commission. Copies may be furnished to members of the public at cost upon request, may also be provided via electronic media in a form that may be designated by the Commission.

- (2) The Commission shall keep records and fully disclose the disposition of any funds, including travel funds, which are made available to the Commission in discharging its duties.
- (3) The disposition, retention and destruction of all official records of the Commission, electronic and otherwise, shall be made pursuant to the Federal Records Act, 44 U.S. Code, Chapter 33.'

In Section 2902, by inserting 'SECTION 2902(p). **REPORTING REQUIREMENTS.** (1) **ANNUAL REPORTS.** The Commission shall furnish annual reports to Congress and the President no later than October 31 of each calendar year concerning the implementation of the Commission's final recommendations made to Congress on September 8, 2005, [insert date of final recommendations if revisions were provided to the President] providing that Congress has not enacted a joint resolution of disapproval pursuant to section 2904(b). Such report shall track and monitor the uses of the Department of Defense Base Closure Account 2005 as described in section 2906A; the implementation by each branch of the armed services of the recommendations made by the 2005 Defense Base Closure and Realignment Commission, including any annual net savings thereof; the implementation of privatizations-in-place by local redevelopment authorities; environmental remediation under taken by the Department of Defense, and the costs thereof, and the impact of closures or realignments on international treaty obligations of the United States.'

'(2) **SPECIAL REPORT OF THE COMMISSION.**-- The Commission shall be authorized to conduct a thorough study and detailed analysis of the implementation of the 2005 Defense Closure and Realignment Commission's recommendations as long as Congress fails to enact a joint resolution of disapproval as provided in Section 2904(b).

The study, to be issued at the discretion of the Commission but, in any case no later than June 30, 2007, to Congress and the President shall identify and discuss the feasibility of categorizing military installations scheduled for closure and realignment, where appropriate, into properties: (a) that are the subject of negotiations with local redevelopment authorities or other parties for re-use or rezoning and may require special finance vehicles such as loans, loan guarantees, investments, environmental bonds and insurance, or other options to successfully transfer title and use to municipal, State or private sector entities; and (b) that are National Priorities List (NPL) sites or that have significant environmental remediation problems requiring long-term management and oversight. The Commission shall consult with the Department of Defense and its military service branches, the Comptroller General of the United States and the Environmental Protection Agency, and the Bureau of Land Management, Department of the Interior, in making its study.

‘(3) FINAL REPORT. The Commission shall furnish a final report to Congress and the President no later than October 31, 2011, concerning the implementation of the Commission’s final recommendations made to Congress on September 8, 2005, [insert date of final recommendations if revisions were provided to the President] as long as Congress has not enacted a joint resolution of disapproval pursuant to section 2904(b).’

In Section 2902, by inserting **‘SECTION 2902(q). SUBPOENA POWER.** The Commission shall have the power to issue subpoenas to compel the disclosure of testimony, documentary, electronic or other types of evidence and the testimony of the custodians thereof. Such subpoenas shall be enforceable by a federal district court with jurisdiction over the matter.

In Section 2903 by striking **‘PROCEDURE FOR MAKING RECOMMENDATIONS FOR BASE CLOSURES AND REALIGNMENTS’** and inserting **‘PROCEDURE FOR INITIATING AN ADDITIONAL ROUND OF BASE CLOSURES AND REALIGNMENTS.’**

By deleting section 2903(a) and inserting **‘SECTION 2903(a) FORCE-STRUCTURE PLAN AND INFRASTRUCTURE INVENTORY.—**

‘(1) PREPARATION AND SUBMISSION.— As part of the budget justification documents submitted to Congress in support of the budget for the Department of Defense for fiscal year 2011, the Secretary shall include the following:

‘(A) A force-structure plan for the Armed Forces based on (i) an assessment provided to the Secretary by the Director of National Intelligence, in consultation with the Secretary and other national intelligence agencies, no later than January 31, 2010, of the probable threats to the national security during the 20-year period beginning with fiscal year 2010, taking into account military, economic and diplomatic factors; (ii) the probable end-strength levels and major military force units (including land force divisions, carrier and other major combatant vessels, air wings, and other comparable units) needed to meet

these threats; (iii) mobility capabilities and (iv) the anticipated levels of funding that will be available for national defense purposes during such period.

‘(B) A comprehensive inventory of military installations world-wide for each military department, with specifications of the number and type of facilities in the active and reserve forces of each military department.

‘(2) **RELATIONSHIP OF PLAN AND INVENTORY.**— Using the force-structure plan and infrastructure inventory prepared under paragraph (1), the Secretary shall prepare (and include as part of the submission of such plan and inventory) the following:

‘(A) A description of the infrastructure necessary to support the force structure described in the force-structure plan.

‘(B) A discussion of categories of excess infrastructure and infrastructure capacity.

‘(C) An economic analysis of the effect of the closure or realignment of military installations to reduce excess infrastructure.

‘(3) **SPECIAL CONSIDERATIONS.**—In determining the level of necessary versus excess infrastructure under paragraph (2), the Secretary shall consider the following:

‘(A) The anticipated continuing need for and availability of military installations outside the United States, taking into account current restrictions on the use of military installations outside the United States and the potential for future prohibitions or restrictions on the use of such military installations.

‘(B) Any efficiencies that may be gained from joint tenancy by more than one branch of the Armed Forces at a military installation.

‘(4) **REVISION.**—The Secretary may revise the force-structure plan and infrastructure inventory; If the Secretary makes such a revision, the Secretary shall submit the revised plan or inventory to Congress not later than October 1, 2010. For purposes of selecting military installations for closure or realignment under this Act in 2010, no revision of the force-structure plan or infrastructure inventory is authorized after that date.

‘(b) **CERTIFICATION OF NEED FOR FURTHER CLOSURES AND REALIGNMENTS.** -- In order to initiate an additional round of base closures and realignments on the basis of the force-structure plan and infrastructure inventory and the economic analysis of the effect of the closure or realignment of military installations to reduce excess infrastructure prepared under subsection (a), and as part of the submission of the plan and inventory, the Secretary of the Department of Defense shall certify no later than March 15, 2010 –

- (1) That a need exists for the closure or realignment of additional military installations;
- (2) That an additional round of closures and realignments would result in annual net savings for each military department beginning not later than fiscal year 2017; and,
- (3) That the certification is based on the force-structure plan and infrastructure inventory, including a 20-year projected threat assessment, and consideration of the Quadrennial Defense Review for 2009, issued by the Secretary pursuant to 10 U.S.C. Section 118(a), and the overseas global basing posture.

‘(c) **EFFECT OF FAILURE TO CERTIFY.**—If the Secretary does not certify the need for closures or realignments of military installations as referred to in paragraph (b), the process by which military installations may be selected for closure or realignment under this Act shall be terminated.’

In Section 2903 by renumbering section (b) as ‘(d) **SELECTION CRITERIA.**—(1) and striking ‘December 31, 1990,’ and inserting ‘April 15, 2010.’ In section 2903(2)(A) by striking ‘February 15, 1991’ and inserting ‘June 30, 2010’, and by striking ‘March 1991’ and inserting ‘as long as Congress fails to enact a joint resolution of disapproval as provided in Section 2904(b) herein.’ And, in section 2903(2)(B) by striking ‘January 15 of the year concerned’ and inserting ‘August 15, 2010’ and by striking ‘enacted on or before February 15 of the year concerned’ and inserting ‘as long as Congress fails to enact a joint resolution of disapproval as provided in Section 2904(b) herein.’ And by inserting as a new sentence at the end of section 2903(2)(B) ‘This Act shall be further amended to add the final selection criteria, as published in the *Federal Register*, within 120 days of such publication.’

In section 2903, by inserting section ‘(e) **COMPTROLLER GENERAL EVALUATION.**—

‘(1) **EVALUATION REQUIRED.**—If the certification is provided under subsection (b), the Comptroller General shall prepare an evaluation of the following:

‘(A) The force-structure plan and infrastructure inventory prepared under subsection (a) and the final selection criteria referenced in subsection (d), including an evaluation of the accuracy and analytical sufficiency of such plan, inventory, and criteria.

‘(B) The need for the closure or realignment of additional military installations.

‘(2) **SUBMISSION.**—The Comptroller General shall submit the evaluation to Congress not later than 60 days after the date on which the force-structure plan and infrastructure inventory are submitted to Congress.’

In section 2903, by inserting section ‘(f)(1) **APPOINTMENT OF COMMISSIONERS FOR AN ADDITIONAL ROUND.**-- Subject to the issuance of certifications by the Secretary as required under subsection (b), the President may commence an additional round for the selection of military installations for closure and realignment under this Act by transmitting to the Senate, not later than September 30, 2010, nominations pursuant to section 2902(c) for the appointment of new members to the Defense Base Realignment and Closure Commission.

‘(2) **EFFECT OF FAILURE TO NOMINATE.**—If the President does not transmit to the Senate the nominations for the Commission by September 30, 2010, the process by which military installations may be selected for closure or realignment under this Act in 2010 shall be terminated.’

In section 2903 by striking ‘(c)’ and inserting ‘(g) **DOD RECOMMENDATIONS.**--(1) If the Secretary makes the certifications required under subsection (b), the Secretary shall publish in the *Federal Register* and transmit to the congressional defense committees and the Commission, not later than November 30, 2010, a list of the military installations inside the United States that the Secretary recommends for closure or realignment on the basis of the force-structure plan and infrastructure inventory prepared by the Secretary under subsection (a)(1), and the final selection criteria specified in subsection (d).

‘(2)(A) The Secretary shall include, with the list of recommendations published and transmitted pursuant to paragraph (1), a summary of the selection process that resulted in the recommendation for each installation, including a detailed justification for each recommendation. This justification shall include sufficient detail, including minutes of meetings for Department of Defense executive group sessions, including presentations made to the Department of Defense Infrastructure Executive Council and the Infrastructure Steering Group, along with complete cost data in order to enable the Commission to consider and propose alternatives to the recommendations proposed by the Secretary.

(B) The Secretary shall certify and transmit to the congressional defense committees and the Commission the summary and detailed justification matters referred to in paragraph (A) in full, complete and accurate form, fully disaggregated, as necessary, into unclassified and classified databases, not later than 7 days after the date of the transmittal to the congressional defense committees and the Commission of the list referred to in paragraph (1). Additionally, the Secretary shall make available to the public a copy of the unclassified portions of the summary and detailed justification within 7 days after the Secretary transmits the list referred to paragraph (1). If the Secretary does not certify and transmit the summary and justification for the list of recommendations as described in this section, the process by which military installations may be selected for closure or realignment under this Act shall be terminated.

‘(3)(A) CONSIDERATION OF U.S. MILITARY INSTALLATIONS.— In considering military installations for closure or realignment, the Secretary shall consider all military installations inside the United States equally without regard to whether the installation has been previously considered or proposed for closure or realignment by the Department.

‘(B) In considering military installations for closure or realignment, the Secretary may not take into account for any purpose any advance conversion planning undertaken by an affected community with respect to the anticipated closure or realignment of an installation.

‘(C) For purposes of subparagraph (B), in the case of a community anticipating the economic effects of a closure or realignment of a military installation, advance conversion planning--

(i) shall include community adjustment and economic diversification planning undertaken by the community before an anticipated selection of a military installation in or near the community for closure or realignment; and

(ii) may include the development of contingency redevelopment plans, plans for economic development and diversification, and plans for the joint use (including civilian and military use, public and private use, civilian dual use, and civilian shared use) of the property or facilities of the installation after the anticipated closure or realignment.

‘(4) CONSIDERATION OF LOCAL GOVERNMENT VIEWS.—(A) In making recommendations to the Commission in 2010, the Secretary shall consider any notice received from a local government in the vicinity of a military installation that the government would approve of the closure or realignment of the installation.

‘(B) Notwithstanding the requirement in subparagraph (A), the Secretary shall make the recommendations referred to in that subparagraph based on the force-structure plan, infrastructure inventory, and final selection criteria otherwise applicable to such recommendations.

‘(C) The recommendations shall include a statement of the result of the consideration of any notice described in subparagraph (A) that is received with respect to a military installation covered by such recommendations. The statement shall set forth the reasons for the result.’

‘(5) SECRETARY’S USE OF INFORMATION.-- In addition to making all information used by the Secretary to prepare the recommendations under this subsection available to Congress (including any committee or member of Congress), the Secretary shall also make such information available to the Commission and the Comptroller General of the United States.

'(6)(A) **CERTIFICATION OF INFORMATION.**-- Each person referred to in subparagraph (B), when submitting information to the Secretary of Defense or the Commission concerning the closure or realignment of a military installation, shall certify that such information is accurate and complete to the best of that person's knowledge and belief.

(B) Subparagraph (A) applies to the following persons:

- (i) The Secretaries of the military departments.
- (ii) The heads of the Defense Agencies.
- (iii) Each person who is in a position the duties of which include personal and substantial involvement in the preparation and submission of information and recommendations concerning the closure or realignment of military installations, as designated in regulations which the Secretary of Defense shall prescribe, regulations which the Secretary of each military department shall prescribe for personnel within that military department, or regulations which the head of each Defense Agency shall prescribe for personnel within that Defense Agency.

'(7) **TRANSMITTAL OF CERTIFIED INFORMATION.**-- Any information provided to the Commission by a person described in paragraph (6)(B) shall also be submitted to the Senate and the House of Representatives to be made available to the Members of the House concerned in accordance with the rules of that House. The information shall be submitted to the Senate and House of Representatives within 48 hours after the submission of the information to the Commission.'

In section 2903, by striking '(d)' and inserting '(h) **REVIEW AND RECOMMENDATIONS BY THE COMMISSION.**--(1) After receiving the recommendations from the Secretary pursuant to subsection (g), the Commission shall conduct public hearings on the recommendations. All testimony before the Commission at a public hearing conducted under this paragraph shall be presented under oath.

'(2)(A) The Commission shall, by no later than June 30, 2011, transmit to the President a report containing the Commission's findings and conclusions based on a review and analysis of the recommendations made by the Secretary as transmitted on November 30, 2010, together with the Commission's recommendations for closures and realignments of military installations inside the United States.

(B) Subject to subparagraph (g), in making its recommendations, the Commission may make changes in any of the recommendations made by the Secretary if the Commission determines that the Secretary deviated substantially from the force-structure plan and final criteria referred to in subsection (a) in making recommendations.

(C) In the case of a change described in subparagraph (D) in the recommendations made by the Secretary, the Commission may make the change only if the Commission—

- (i) makes the determination required by subparagraph (B);
- (ii) determines that the change is consistent with the force-structure plan and final criteria referred to in subsection (c)(1);
- (iii) publishes a notice of the proposed change in the *Federal Register* not less than 30 days before transmitting its recommendations to the President pursuant to paragraph (2); and
- (iv) conducts public hearings on the proposed change.

(D) Subparagraph (C) shall apply to a change by the Commission in the Secretary's recommendations that would--

- (i) add a military installation to the list of military installations recommended by the Secretary for closure;
- (ii) add a military installation to the list of military installations recommended by the Secretary for realignment; or
- (iii) increase the extent of a realignment of a particular military installation recommended by the Secretary.

(E) In making recommendations under this paragraph, the Commission may not take into account for any purpose any advance conversion planning undertaken by an affected community with respect to the anticipated closure or realignment of a military installation.

‘(3) AVAILABILITY OF RECOMMENDATIONS TO CONGRESS.—After June 30, 2011, the Commission shall promptly provide, upon request, to any Member of Congress information used by the Commission in making its recommendations.

‘(4) LIMITATIONS ON AUTHORITY TO CONSIDER ADDITIONS TO CLOSURE OR REALIGNMENT LISTS.—The Commission may not consider making a change in the recommendations of the Secretary that would add a military installation to the Secretary’s list of installations recommended for closure or realignment unless, in addition to the requirements of section 2903(h)(2)(C)—

‘(A) the Commission provides the Secretary with at least a 15-day period, before making the change, in which to submit an explanation of the reasons why the installation was not included on the closure or realignment list by the Secretary; and

‘(B) the decision to add the installation for Commission consideration is supported by at least seven members of the Commission.

‘(5) **TESTIMONY BY SECRETARY.**—The Commission shall invite the Secretary to testify at a public hearing, or a closed hearing if classified information is involved, on any proposed change by the Commission to the Secretary’s recommendations.

‘(6) **REQUIREMENTS TO EXPAND CLOSURE OR REALIGNMENT RECOMMENDATIONS.**—In the report required under section 2903(h)(2)(A) that is to be transmitted under paragraph (1), the Commission may not make a change in the recommendations of the Secretary that would close a military installation not recommended for closure by the Secretary, would realign a military installation not recommended for closure or realignment by the Secretary, or would expand the extent of the realignment of a military installation recommended for realignment by the Secretary unless—

‘(A) at least two members of the Commission visit the military installation before the date of the transmittal of the report; and

‘(B) the decision of the Commission to make the change to recommend the closure of the military installation, the realignment of the installation, or the expanded realignment of the installation is supported by at least seven members of the Commission.

‘(7) The Commission shall explain and justify in its report submitted to the President on June 30, 2011, any recommendation made by the Commission that is different from the recommendations made by the Secretary pursuant to subsection (g). The Commission shall transmit a copy of such report to the congressional defense committees on the same date on which it transmits its recommendations to the President.

‘(8) When the Commission transmits recommendations to the President under this subsection, the Commission shall promptly provide, upon request, to any Member of Congress information used by the Commission in making its recommendations.

‘(9) The Comptroller General of the United States shall--

(A) assist the Commission, to the extent requested, in the Commission's review and analysis of the recommendations made by the Secretary pursuant to subsection (C); and

(B) by no later than January 15, 2011, transmit to the Congress and to the Commission a report containing a detailed analysis of the Secretary's recommendations and selection process.’

In section 2903 by striking '(e)' and inserting '(i) **REVIEW BY THE PRESIDENT.--**

(1) The President shall, by no later than July 15, 2011, transmit to the Commission and to the Congress a report containing the President's approval or disapproval of the Commission's recommendations.

'(2) If the President approves all the recommendations of the Commission, the President shall transmit a copy of such recommendations to the Congress, together with a certification of such approval.

'(3) If the President disapproves the recommendations of the Commission, in whole or in part, the President shall transmit to the Commission and the Congress the reasons for that disapproval. The Commission shall then transmit to the President, by no later than August 15, 2011, a revised list of recommendations for the closure and realignment of military installations.

'(4) If the President approves all of the revised recommendations of the Commission transmitted to the President under paragraph (3), the President shall transmit a copy of such revised recommendations to the Congress, together with a certification of such approval no later than August 30, 2011.

'(5) If the President does not transmit to the Congress an approval and certification described in paragraph (2) or (4) by August 30, 2011, the process by which military installations may be selected for closure or realignment under this Act shall be terminated.

'(6) A report of the President under this subsection containing the President's approval of the Commission's recommendations is deemed to be a report under section 2903(e) for purposes of sections 2904 and 2908.'

In section 2904(a)(3) by striking '2005 report' and inserting '2011 report,' and striking 'section 2903(e)' and inserting 'section 2903(i).'

In section 2905(b)(4)(B)(ii) by deleting 'a reasonable period of time' and inserting two years,' and by inserting a new sentence to follow the first sentence, 'If the requirements of this subsection are not met, the Department shall be free to negotiate with parties other than the redevelopment authority.'

In section 2905 by inserting new section '(f) **ENVIRONMENTAL COOPERATIVE AGREEMENTS.--** By making section 311 of the Fiscal Year 2003 National Defense Authorization Act (Public Law 107-314) a permanent authority permitting the Secretary of Defense to enter into and fund cooperative agreements for environmental purposes with Federal, State and local agencies as well as Indian tribes, in carrying out the Defense Environmental Restoration Program (Title 10, U.S. Code, Section 2701).'

In section 2909(a), by striking ‘during the period beginning on November 5, 1990, and ending on April 15, 2006, this part’ and inserting ‘this Act.’

By deleting section 2909(c)(1).

In section 2910(1), by striking ‘the Department of Defense Base Closure Account 1990 established by section 2906(a)(1)’ and inserting ‘the Department of Defense Base Closure Account 2005, established in section 2906A.’

By deleting Sections 2912-2914.



DEFENSE BASE CLOSURE AND REALIGNMENT ACT OF 1990
(As amended through FY 05 Authorization Act)

SEC. 2901. SHORT TITLE AND PURPOSE

(a) **SHORT TITLE.**--This part may be cited as the "Defense Base Closure and Realignment Act of 1990".

(b) **PURPOSE.**--The purpose of this part is to provide a fair process that will result in the timely closure and realignment of military installations inside the United States.

SEC. 2902. THE COMMISSION

(a) **ESTABLISHMENT.**--There is established an independent commission to be known as the "Defense Base Closure and Realignment Commission".

(b) **DUTIES.**--The Commission shall carry out the duties specified for it in this part.

(c) **APPOINTMENT.**--(1)(A) The Commission shall be composed of eight members appointed by the President, by and with the advise and consent of the Senate.

(B) The President shall transmit to the Senate the nominations for appointment to the Commission--

(i) by no later than January 3, 1991, in the case of members of the Commission whose terms will expire at the end of the first session of the 102nd Congress;

(ii) by no later than January 25, 1993, in the case of members of the Commission whose terms will expire at the end of the first session of the 103rd Congress; and

(iii) by no later than January 3, 1995, in the case of members of the Commission whose terms will expire at the end of the first session of the 104th Congress.

(C) If the President does not transmit to Congress the nominations for appointment to the Commission on or before the date specified for 1993 in clause (ii) of subparagraph (B) or for 1995 in clause (iii) of such subparagraph, the process by which military installations may be selected for closure or realignment under this part with respect to that year shall be terminated.

(2) In selecting individuals for nominations for appointments to the Commission, the President should consult with--

(A) the Speaker of the House of Representatives concerning the appointment of two members;

(B) the majority leader of the Senate concerning the appointment of two members;

(C) the minority leader of the House of Representatives concerning the appointment of one member; and

(D) the minority leader of the Senate concerning the appointment of one member.

(3) At the time the President nominates individuals for appointment to the Commission for each session of Congress referred to in paragraph (1)(B), the President shall designate one such individual who shall serve as Chairman of the Commission.

(d) TERMS.--(1) Except as provided in paragraph (2), each member of the Commission shall serve until the adjournment of Congress sine die for the session during which the member was appointed to the Commission.

(2) The Chairman of the Commission shall serve until the confirmation of a successor.

(e) MEETINGS.--(1) The Commission shall meet only during calendar years 1991, 1993, and 1995.

(2)(A) Each meeting of the Commission, other than meetings in which classified information is to be discussed, shall be open to the public.

(B) All the proceedings, information, and deliberations of the Commission shall be open, upon request, to the following:

(i) The Chairman and the ranking minority party member of the Subcommittee on Readiness, Sustainability, and Support of the Committee on Armed Services of the Senate, or such other members of the Subcommittee designated by such Chairman or ranking minority party member.

(ii) The Chairman and the ranking minority party member of the Subcommittee on Military Installations and Facilities of the Committee on Armed Services of the House of Representatives, or such other members of the Subcommittee designated by such Chairman or ranking minority party member.

(iii) The Chairmen and ranking minority party members of the Subcommittees on Military Construction of the Committees on Appropriations of the Senate and of the House of Representatives, or such other members of the Subcommittees designated by such Chairmen or ranking minority party members.

(f) VACANCIES.--A vacancy in the Commission shall be filled in the same manner as the original appointment, but the individual appointed to fill the vacancy shall serve only for the unexpired portion of the term for which the individual's predecessor was appointed.

(g) PAY AND TRAVEL EXPENSES.--(1)(A) Each member, other than the Chairman, shall be paid at a rate equal to the daily equivalent of the minimum annual rate of basic pay payable for level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day (including travel time) during which the member is engaged in the actual performance of duties vested in the Commission.

(B) The Chairman shall be paid for each day referred to in subparagraph (A) at a rate equal to the daily equivalent of the minimum annual rate of basic pay payable for level III of the Executive Schedule under section 5314, of title 5, United States Code.

(2) Members shall receive travel expenses, including per diem in lieu of subsistence, in accordance with sections 5702 and 5703 of title 5, United States Code.

(h) DIRECTOR OF STAFF.--(1) The Commission shall, without regard to section 5311(b) of title 5, United States Code, appoint a Director who has not served on active duty in the Armed Forces or as a civilian employee of the Department of Defense during the one-year period preceding the date of such appointment.

(2) The Director shall be paid at the rate of basic pay payable for level IV of the

Executive Schedule under section 5315 of title 5, United States Code.

(i) STAFF.--(1) Subject to paragraphs (2) and (3), the Director, with the approval of the Commission, may appoint and fix the pay of additional personnel.

(2) The Director may make such appointments without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and any personnel so appointed may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of that title relating to classification and General Schedule pay rates, except that an individual so appointed may not receive pay in excess of the annual rate of basic pay payable for GS-18 of the General Schedule.

(3)(A) Not more than one-third of the personnel employed by or detailed to the Commission may be on detail from the Department of Defense.

(B)(i) Not more than one-fifth of the professional analysts of the Commission staff may be persons detailed from the Department of Defense to the Commission.

(ii) No person detailed from the Department of Defense to the Commission may be assigned as the lead professional analyst with respect to a military department or defense agency.

(C) A person may not be detailed from the Department of Defense to the Commission if, within 12 months before the detail is to begin, that person participated personally and substantially in any matter within the Department of Defense concerning the preparation of recommendations for closures or realignments of military installations.

(D) No member of the Armed Forces, and no officer or employee of the Department of Defense, may--

(i) prepare any report concerning the effectiveness, fitness, or efficiency of the performance on the staff of the Commission of any person detailed from the Department of Defense to that staff;

(ii) review the preparation of such a report; or

(iii) approve or disapprove such a report.

(4) Upon request of the Director, the head of any Federal department or agency may detail any of the personnel of that department or agency to the Commission to assist the Commission in carrying out its duties under this part.

(5) The Comptroller General of the United States shall provide assistance, including the detailing of employees, to the Commission in accordance with an agreement entered into with the Commission.

(6) The following restrictions relating to the personnel of the Commission shall apply during 1992 and 1994:

(A) There may not be more than 15 persons on the staff at any one time.

(B) The staff may perform only such functions as are necessary to prepare for the transition to new membership on the Commission in the following year.

(C) No member of the Armed Forces and no employee of the Department of Defense may serve on the staff.

(j) OTHER AUTHORITY.--(1) The Commission may procure by contract, to the extent funds are available, the temporary or intermittent services of experts or consultants pursuant to section 3109 of title 5, United States Code.

(2) The Commission may lease space and acquire personal property to the extent funds are available.

(k) FUNDING.--(1) There are authorized to be appropriated to the Commission such funds as are necessary to carry out its duties under this part. Such funds shall remain available until expended.

(2) If no funds are appropriated to the Commission by the end of the second session of the 101st Congress, the Secretary of Defense may transfer, for fiscal year 1991, to the Commission funds from the Department of Defense Base Closure Account established by section 207 of Public Law 100-526. Such funds shall remain available until expended.

(3)(A) The Secretary may transfer not more than \$300,000 from unobligated funds in the account referred to in subparagraph (B) for the purpose of assisting the Commission in carrying out its duties under this part during October, November, and December 1995. Funds transferred under the preceding sentence shall remain available until December 31, 1995.

(B) The account referred to in subparagraph (A) is the Department of Defense Base Closure Account established under section 207(a) of the Defense Authorization Amendments and Base Closure and Realignment Act (Public Law 100-526; 10 U.S.C. 2687 note).

(l) TERMINATION.--The Commission shall terminate on December 31, 1995.

(m) PROHIBITION AGAINST RESTRICTING COMMUNICATIONS.--Section 1034 of title 10, United States Code, shall apply with respect to communications with the Commission.

SEC. 2903. PROCEDURE FOR MAKING RECOMMENDATIONS FOR BASE CLOSURES AND REALIGNMENTS

(a) FORCE-STRUCTURE PLAN.--(1) As part of the budget justification documents submitted to Congress in support of the budget for the Department of Defense for each of the fiscal years 1992, 1994, and 1996, the Secretary shall include a force-structure plan for the Armed Forces based on an assessment by the Secretary of the probable threats to the national security during the six-year period beginning with the fiscal year for which the budget request is made and of the anticipated levels of funding that will be available for national defense purposes during such period.

(2) Such plan shall include, without any reference (directly or indirectly) to military installations inside the United States that may be closed or realigned under such plan--

(A) a description of the assessment referred to in paragraph (1);

(B) a description (i) of the anticipated force structure during and at the end of such period for each military department (with specifications of the number and type of units in the active and reserve forces of each such department), and (ii) of the units that will need to be forward based (with a justification thereof) during and at the end of each such period; and

(C) a description of the anticipated implementation of such force-structure plan.

(3) The Secretary shall also transmit a copy of each such force-structure plan to the Commission.

(b) SELECTION CRITERIA.--(1) The Secretary shall, by no later than December 31, 1990, publish in the *Federal Register* and transmit to the congressional defense committees the criteria proposed to be used by the Department of Defense in making recommendations for the closure or realignment of military installations inside the United States under this part. The Secretary shall provide an opportunity for public comment on the proposed criteria for a period of at least 30 days and shall include notice of that opportunity in the publication required under the preceding sentence.

(2)(A) The Secretary shall, by no later than February 15, 1991, publish in the *Federal Register* and transmit to the congressional defense committees the final criteria to be used in making recommendations for the closure or realignment of military installations inside the United States under this part. Except as provided in subparagraph (B), such criteria shall be the final criteria to be used, making such recommendations unless disapproved by a joint resolution of Congress enacted on or before March 15, 1991.

(B) The Secretary may amend such criteria, but such amendments may not become effective until they have been published in the *Federal Register*, opened to public comment for at least 30 days, and then transmitted to the congressional defense committees in final form by no later than January 15 of the year concerned. Such amended criteria shall be the final criteria to be used, along with the force-structure plan referred to in subsection (a), in making such recommendations unless disapproved by a joint resolution of Congress enacted on or before February 15 of the year concerned.

(c) DOD RECOMMENDATIONS.--(1) The Secretary may, by no later than April 15, 1991, March 15, 1993, and March 1, 1995, publish in the *Federal Register* and transmit to the congressional defense committees and to the Commission a list of the military installations inside the United States that the Secretary recommends for closure or realignment on the basis of the force-structure plan and the final criteria referred to in subsection (b)(2) that are applicable to the year concerned.

(2) The Secretary shall include, with the list of recommendations published and transmitted pursuant to paragraph (1), a summary of the selection process that resulted in the recommendation for each installation, including a justification for each recommendation. The Secretary shall transmit the matters referred to in the preceding sentence not later than 7 days after the date of the transmittal to the congressional defense committees and the Commission of the list referred to in paragraph (1).

(3)(A) In considering military installations for closure or realignment, the Secretary shall consider all military installations inside the United States equally without regard to whether the installation has been previously considered or proposed for closure or realignment by the Department.

(B) In considering military installations for closure or realignment, the Secretary may not take into account for any purpose any advance conversion planning undertaken by an affected community with respect to the anticipated closure or realignment of an installation.

(C) For purposes of subparagraph (B), in the case of a community anticipating the economic effects of a closure or realignment of a military installation, advance conversion planning--

(i) shall include community adjustment and economic diversification planning undertaken by the community before an anticipated selection of a military installation in or near the community for closure or realignment; and

(ii) may include the development of contingency redevelopment plans, plans for economic development and diversification, and plans for the joint use (including civilian and military use, public and private use, civilian dual use, and civilian shared use) of the property or facilities of the installation after the anticipated closure or realignment.

(4) In addition to making all information used by the Secretary to prepare the recommendations under this subsection available to Congress (including any committee or member of Congress), the Secretary shall also make such information available to the Commission and the Comptroller General of the United States.

(5)(A) Each person referred to in subparagraph (B), when submitting information to the Secretary of Defense or the Commission concerning the closure or realignment of a military installation, shall certify that such information is accurate and complete to the best of that persons knowledge and belief.

(B) Subparagraph (A) applies to the following persons:

(i) The Secretaries of the military departments.

(ii) The heads of the Defense Agencies.

(iii) Each person who is in a position the duties of which include personal and substantial involvement in the preparation and submission of information and recommendations concerning the closure or realignment of military installations, as designated in regulations which the Secretary of Defense shall prescribe, regulations which the Secretary of each military department shall prescribe for personnel within that military department, or regulations which the head of each Defense Agency shall prescribe for personnel within that Defense Agency.

(6) Any information provided to the Commission by a person described in paragraph (5)(B) shall also be submitted to the Senate and the House of Representatives to be made available to the Members of the House concerned in accordance with the rules of that House. The information shall be submitted to the Senate and House of Representatives within 24 hours after the submission of the information to the Commission.

(d) REVIEW AND RECOMMENDATIONS BY THE COMMISSION.--(1) After receiving the recommendations from the Secretary pursuant to subsection (c) for any year, the Commission shall conduct public hearings on the recommendations. All testimony before the Commission at a public hearing conducted under this paragraph shall be presented under oath. [*The preceding sentence shall apply with respect to all public hearings conducted by the Defense Base Closure and Realignment Commission after November 30, 1993.*]

(2)(A) The Commission shall, by no later than July 1 of each year in which the Secretary transmits recommendations to it pursuant to subsection (c), transmit to the President a report containing the Commission's findings and conclusions based on a review and analysis of the recommendations made by the Secretary, together with the Commission's recommendations for closures and realignments of military installations inside the United States.

(B) Subject to subparagraph (C), in making its recommendations, the Commission may make changes in any of the recommendations made by the Secretary if the Commission

determines that the Secretary deviated substantially from the force-structure plan and final criteria referred to in subsection (c)(1) in making recommendations.

(C) In the case of a change described in subparagraph (D) in the recommendations made by the Secretary, the Commission may make the change only if the Commission--

(i) makes the determination required by subparagraph (B);

(ii) determines that the change is consistent with the force-structure plan and final criteria referred to in subsection (c)(1);

(iii) publishes a notice of the proposed change in the *Federal Register* not less than 45 days before transmitting its recommendations to the President pursuant to paragraph (2); and

(iv) conducts public hearings on the proposed change.

(D) Subparagraph (C) shall apply to a change by the Commission in the Secretary's recommendations that would--

(i) add a military installation to the list of military installations recommended by the Secretary for closure;

(ii) add a military installation to the list of military installations recommended by the Secretary for realignment; or

(iii) increase the extent of a realignment of a particular military installation recommended by the Secretary.

(E) In making recommendations under this paragraph, the Commission may not take into account for any purpose any advance conversion planning undertaken by an affected community with respect to the anticipated closure or realignment of a military installation.

(3) The Commission shall explain and justify in its report submitted to the President pursuant to paragraph (2) any recommendation made by the Commission that is different from the recommendations made by the Secretary pursuant to subsection (c). The Commission shall transmit a copy of such report to the congressional defense committees on the same date on which it transmits its recommendations to the President under paragraph (2).

(4) After July 1 of each year in which the Commission transmits recommendations to the President under this subsection, the Commission shall promptly provide, upon request, to any Member of Congress information used by the Commission in making its recommendations.

(5) The Comptroller General of the United States shall--

(A) assist the Commission, to the extent requested, in the Commission's review and analysis of the recommendations made by the Secretary pursuant to subsection (C); and

(B) by no later than April 15 of each year in which the Secretary makes such recommendations, transmit to the Congress and to the Commission a report containing a detailed analysis of the Secretary's recommendations and selection process.

(e) REVIEW BY THE PRESIDENT.--(1) The President shall, by no later than July 15 of each year in which the Commission makes recommendations under subsection (d), transmit to the Commission and to the Congress a report containing the President's approval or disapproval of the Commission's recommendations.

(2) If the President approves all the recommendations of the Commission, the President shall transmit a copy of such recommendations to the Congress, together with a certification of

such approval.

(3) If the President disapproves the recommendations of the Commission, in whole or in part, the President shall transmit to the Commission and the Congress the reasons for that disapproval. The Commission shall then transmit to the President, by no later than August 15 of the year concerned, a revised list of recommendations for the closure and realignment of military installations.

(4) If the President approves all of the revised recommendations of the Commission transmitted to the President under paragraph (3), the President shall transmit a copy of such revised recommendations to the Congress, together with a certification of such approval.

(5) If the President does not transmit to the Congress an approval and certification described in paragraph (2) or (4) by September 1 of any year in which the Commission has transmitted recommendations to the President under this part, the process by which military installations may be selected for closure or realignment under this part with respect to that year shall be terminated.

SEC. 2904. CLOSURE AND REALIGNMENT OF MILITARY INSTALLATIONS

(a) IN GENERAL.--Subject to subsection (b), the Secretary shall--

(1) close all military installations recommended for closure by the Commission in each report transmitted to the Congress by the President pursuant to section 2903(e);

(2) realign all military installations recommended for realignment by such Commission in each such report;

(3) carry out the privatization in place of a military installation recommended for closure or realignment by the Commission in the 2005 report only if privatization in place is a method of closure or realignment of the military installation specified in the recommendations of the Commission in such report and is determined by the Commission to be the most cost-effective method of implementation of the recommendation;

(4) initiate all such closures and realignments no later than two years after the date on which the President transmits a report to the Congress pursuant to section 2903(e) containing the recommendations for such closures or realignments; and

(5) complete all such closures and realignments no later than the end of the six-year period beginning on the date on which the President transmits the report pursuant to section 2903(e) containing the recommendations for such closures or realignments.

(b) CONGRESSIONAL DISAPPROVAL.--(1) The Secretary may not carry out any closure or realignment recommended by the Commission in a report transmitted from the President pursuant to section 2903(e) if a joint resolution is enacted, in accordance with the provisions of section 2908: disapproving such recommendations of the Commission before the earlier of--

(A) the end of the 45-day period beginning on the date on which the President transmits such report; or

(B) the adjournment of Congress sine die for the session during which such report is transmitted.

(2) For purposes of paragraph (1) of this subsection and subsections (a) and (c) of section 2908, the days on which either House of Congress is not in session because of adjournment of

more than three days to a day certain shall be excluded in the computation of a period.

SEC. 2905. IMPLEMENTATION

(a) IN GENERAL.--(1) In closing or realigning any military installation under this part, the Secretary may—

(A) take such actions as may be necessary to close or realign any military installation, including the acquisition of such land, the construction of such replacement facilities, the performance of such activities, and the conduct of such advance planning and design as may be required to transfer functions from a military installation being closed or realigned to another military installation, and may use for such purpose funds in the Account or funds appropriated to the Department of Defense for use in planning and design, minor construction, or operation and maintenance;

(B) provide--

(i) economic adjustment assistance to any community located near a military installation being closed or realigned, and

(ii) community planning assistance to any community located near a military installation to which functions will be transferred as a result of the closure or realignment of a military installation, if the Secretary of Defense determines that the financial resources available to the community (by grant or otherwise) for such purposes are inadequate, and may use for such purposes funds in the Account or funds appropriated to the Department of Defense for economic adjustment assistance or community planning assistance;

(C) carry out activities for the purposes of environmental restoration and mitigation at any such installation, and shall use for such purposes funds in the Account. [*Amendments to this subsection took effect on December 5, 1991.*]

(D) provide outplacement assistance to civilian employees employed by the Department of Defense at military installations being closed or realigned, and may use for such purpose funds in the Account or funds appropriated to the Department of Defense for outplacement assistance to employees; and

(E) reimburse other Federal agencies for actions performed at the request of the Secretary with respect to any such closure or realignment, and may use for such purpose funds in the Account or funds appropriated to the Department of Defense and available for such purpose.

(2) In carrying out any closure or realignment under this part, the Secretary shall ensure that environmental restoration of any property made excess to the needs of the Department of Defense as a result of such closure or realignment be carried out as soon as possible with funds available for such purpose.

(b) MANAGEMENT AND DISPOSAL OF PROPERTY.--(1) The Administrator of General Services shall delegate to the Secretary of Defense, with respect to excess and surplus real property, facilities, and personal property located at a military installation closed or realigned under this part--

(A) the authority of the Administrator to utilize excess property under subchapter

II of chapter 5 of title 40, United States Code;

(B) the authority of the Administrator to dispose of surplus property under subchapter III of chapter 5 of title 40, United States Code;

(C) the authority to dispose of surplus property for public airports under sections 47151 through 47153 of title 49, United States Code; and

(D) the authority of the Administrator to determine the availability of excess or surplus real property for wildlife conservation purposes in accordance with the Act of May 19, 1948 (16 U.S.C. 667b).

(2)(A) Subject to subparagraph (B) and paragraphs (3), (4), (5), and (6), the Secretary of Defense shall exercise the authority delegated to the Secretary pursuant to paragraph (1) in accordance with--

(i) all regulations governing the utilization of excess property and the disposal of surplus property under the Federal Property and Administrative Services Act of 1949; and

(ii) all regulations governing the conveyance and disposal of property under section 13(g) of the Surplus Property Act of 1944 (50 U.S.C. App. 1622(g)).

(B) The Secretary may, with the concurrence of the Administrator of General Services--

(i) prescribe general policies and methods for utilizing excess property and disposing of surplus property pursuant to the authority delegated under paragraph (1); and

(ii) issue regulations relating to such policies and methods, which shall supersede the regulations referred to in subparagraph (A) with respect to that authority.

(C) The Secretary of Defense may transfer real property or facilities located at a military installation to be closed or realigned under this part, with or without reimbursement, to a military department or other entity (including a nonappropriated fund instrumentality) within the Department of Defense or the Coast Guard.

(D) Before any action may be taken with respect to the disposal of any surplus real property or facility located at any military installation to be closed or realigned under this part, the Secretary of Defense shall consult with the Governor of the State and the heads of the local governments concerned for the purpose of considering any plan for the use of such property by the local community concerned.

(E) If a military installation to be closed, realigned, or placed in an inactive status under this part includes a road used for public access through, into, or around the installation, the Secretary of Defense shall consult with the Governor of the State and the heads of the local governments concerned for the purpose of considering the continued availability of the road for public use after the installation is closed, realigned, or placed in an inactive status.

(3)(A) Not later than 6 months after the date of approval of the closure or realignment of a military installation under this part, the Secretary, in consultation with the redevelopment authority with respect to the installation, shall--

(i) inventory the personal property located at the installation; and

(ii) identify the items (or categories of items) of such personal property that the Secretary determines to be related to real property and anticipates will support the implementation of the redevelopment plan with respect to the installation.

(B) If no redevelopment authority referred to in subparagraph (A) exists with respect to an installation, the Secretary shall consult with--

(i) the local government in whose jurisdiction the installation is wholly located; or

(ii) a local government agency or State government agency designated for the purpose of such consultation by the chief executive officer of the State in which the installation is located.

(C)(i) Except as provided in subparagraphs (E) and (F), the Secretary may not carry out any of the activities referred to in clause (ii) with respect to an installation referred to in that clause until the earlier of--

(I) one week after the date on which the redevelopment plan for the installation is submitted to the Secretary;

(II) the date on which the redevelopment authority notifies the Secretary that it will not submit such a plan;

(III) twenty-four months after the date of approval of the closure or realignment of the installation; or

(IV) ninety days before the date of the closure or realignment of the installation.

(ii) The activities referred to in clause (i) are activities relating to the closure or realignment of an installation to be closed or realigned under this part as follows:

(I) The transfer from the installation of items of personal property at the installation identified in accordance with subparagraph (A).

(II) The reduction in maintenance and repair of facilities or equipment located at the installation below the minimum levels required to support the use of such facilities or equipment for nonmilitary purposes.

(D) Except as provided in paragraph (4), the Secretary may not transfer items of personal property located at an installation to be closed or realigned under this part to another installation, or dispose of such items, if such items are identified in the redevelopment plan for the installation as items essential to the reuse or redevelopment of the installation. In connection with the development of the redevelopment plan for the installation, the Secretary shall consult with the entity responsible for developing the redevelopment plan to identify the items of personal property located at the installation, if any, that the entity desires to be retained at the installation for reuse or redevelopment of the installation.

(E) This paragraph shall not apply to any personal property located at an installation to be closed or realigned under this part if the property--

(i) is required for the operation of a unit, function, component, weapon, or weapons system at another installation;

(ii) is uniquely military in character, and is likely to have no civilian use (other than use for its material content or as a source of commonly used components);

(iii) is not required for the reutilization or redevelopment of the installation (as jointly determined by the Secretary and the redevelopment authority);

(iv) is stored at the installation for purposes of distribution (including spare parts or stock items); or

(v)(I) meets known requirements of an authorized program of another Federal department or agency for which expenditures for similar property would be necessary, and (II) is the subject of a written request by the head of the department or agency.

(F) Notwithstanding subparagraphs (C)(i) and (D), the Secretary may carry out any activity referred to in subparagraph (C)(ii) or (D) if the Secretary determines that the carrying out

of such activity is in the national security interest of the United States.

(4)(A) The Secretary may transfer real property and personal property located at a military installation to be closed or realigned under this part to the redevelopment authority with respect to the installation for purposes of job generation on the installation.

(B) With respect to military installations for which the date of approval of closure or realignment is after January 1, 2005, the Secretary shall seek to obtain consideration in connection with any transfer under this paragraph of property located at the installation in an amount equal to the fair market value of the property, as determined by the Secretary. The transfer of property of a military installation under subparagraph (A) may be without consideration if the redevelopment authority with respect to the installation—

(i) agrees that the proceeds from any sale or lease of the property (or any portion thereof) received by the redevelopment authority during at least the first seven years after the date of the initial transfer of property under subparagraph (A) shall be used to support the economic redevelopment of, or related to, the installation; and

(ii) executes the agreement for transfer of the property and accepts control of the property within a reasonable time after the date of the property disposal record of decision or finding of no significant impact under the National Environmental policy act of 1969 (42 U.S.C. 4321 et seq.).

(C) For purposes of subparagraph (B), the use of proceeds from a sale or lease described in such subparagraph to pay for, or offset the costs of, public investment on or related to the installation for any of the following purposes shall be considered a use to support the economic redevelopment of, or related to, the installation:

- (i) Road construction.
- (ii) Transportation management facilities.
- (iii) Storm and sanitary sewer construction.
- (iv) Police and fire protection facilities and other public facilities.
- (v) Utility construction.
- (vi) Building rehabilitation.
- (vii) Historic property preservation.
- (viii) Pollution prevention equipment or facilities.
- (ix) Demolition.
- (x) Disposal of hazardous materials generated by demolition.
- (xi) Landscaping, grading, and other site or public improvements.
- (xii) Planning for or the marketing of the development and reuse of the

installation.

(D) The Secretary may recoup from a redevelopment authority such portion of the proceeds from a sale or lease described in subparagraph (B) as the Secretary determines appropriate if the redevelopment authority does not use the proceeds to support economic redevelopment of, or related to, the installation for the period specified in subparagraph (B).

(E)(i) The Secretary may transfer real property at an installation approved for closure or realignment under this part (including property at an installation approved for realignment which will be retained by the Department of Defense or another Federal agency after realignment) to the redevelopment authority for the installation if the redevelopment authority agrees to lease, directly upon transfer, one or more portions of the property transferred under this subparagraph to

the Secretary or to the head of another department or agency of the Federal Government. Subparagraph (B) shall apply to a transfer under this subparagraph.

(ii) A lease under clause (i) shall be for a term of not to exceed 50 years, but may provide for options for renewal or extension of the term by the department or agency concerned.

(iii) A lease under clause (i) may not require rental payments by the United States.

(iv) A lease under clause (i) shall include a provision specifying that if the department or agency concerned ceases requiring the use of the leased property before the expiration of the term of the lease, the remainder of the lease term may be satisfied by the same or another department or agency of the Federal Government using the property for a use similar to the use under the lease. Exercise of the authority provided by this clause shall be made in consultation with the redevelopment authority concerned.

(v) Notwithstanding clause (iii), if a lease under clause (i) involves a substantial portion of the installation, the department or agency concerned may obtain facility services for the leased property and common area maintenance from the redevelopment authority or the redevelopment authority's assignee as a provision of the lease. The facility services and common area maintenance shall be provided at a rate no higher than the rate charged to non-Federal tenants of the transferred property. Facility services and common area maintenance covered by the lease shall not include—

(I) municipal services that a State or local government is required by law to provide to all landowners in its jurisdiction without direct charge; or

(II) firefighting or security-guard functions.

(F) The transfer of personal property under subparagraph (A) shall not be subject to the provisions of subchapters II and III of chapter 5 of title 40, United States Code, if the Secretary determines that the transfer of such property is necessary for the effective implementation of a redevelopment plan with respect to the installation at which such property is located.

(G) The provisions of section 120(h) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9620(h)) shall apply to any transfer of real property under this paragraph.

(H)(i) In the case of an agreement for the transfer of property of a military installation under this paragraph that was entered into before April 21, 1999, the Secretary may modify the agreement, and in so doing compromise, waive, adjust, release, or reduce any right, title, claim, lien, or demand of the United States, if—

(I) the Secretary determines that as a result of changed economic circumstances, a modification of the agreement is necessary;

(II) the terms of the modification do not require the return of any payments that have been made to the Secretary;

(III) the terms of the modification do not compromise, waive, adjust, release, or reduce an right, title, claim, lien, or demand of the United States with respect to in-kind consideration; and

(IV) the cash consideration to which the United States is entitled under the modified agreement, when combined with the cash consideration to be received by the United States for the disposal of other real property assets on the installation, are as sufficient as they were under the original agreement to fund the reserve account established under section 204(b)(7)(C) of the Defense Authorization Amendments and

Base Closure and Realignment Act, with the depreciated value of the investment made with commissary store funds or nonappropriated funds in property disposed of pursuant to the agreement being modified, in accordance with section 2906(d).

(ii) When exercising the authority granted by clause (i), the Secretary may waive some or all future payments if, and to the extent that, the Secretary determines such waiver is necessary.

(iii) With the exception of the requirement that the transfer be without consideration, the requirements of subparagraphs (B), (C), and (D) shall be applicable to any agreement modified pursuant to clause (i).

(I) In the case of an agreement for the transfer of property of a military installation under this paragraph that was entered into during the period beginning on April 21, 1999, and ending on the date of enactment of the National Defense Authorization Act for Fiscal Year 2000, at the request of the redevelopment authority concerned, the Secretary shall modify the agreement to conform to all the requirements of subparagraphs (B), (C), and (D). Such a modification may include the compromise, waiver, adjustment, release, or reduction of any right, title, claim, lien, or demand of the United States under the agreement.

(J) The Secretary may require any additional terms and conditions in connection with a transfer under this paragraph as such Secretary considers appropriate to protect the interests of the United States.

(5)(A) Except as provided in subparagraphs (B) and (C), the Secretary shall take such actions as the Secretary determines necessary to ensure that final determinations under paragraph (1) regarding whether another department or agency of the Federal Government has identified a use for any portion of a military installation to be closed or realigned under this part, or will accept transfer of any portion of such installation, are made not later than 6 months after the date of approval of closure or realignment of that installation.

(B) The Secretary may, in consultation with the redevelopment authority with respect to an installation, postpone making the final determinations referred to in subparagraph (A) with respect to the installation for such period as the Secretary determines appropriate if the Secretary determines that such postponement is in the best interests of the communities affected by the closure or realignment of the installation.

(C)(i) Before acquiring non-Federal real property as the location for a new or replacement Federal facility of any type, the head of the Federal agency acquiring the property shall consult with the Secretary regarding the feasibility and cost advantages of using Federal property or facilities at a military installation closed or realigned or to be closed or realigned under this part as the location for the new or replacement facility. In considering the availability and suitability of a specific military installation, the Secretary and the head of the Federal agency involved shall obtain the concurrence of the redevelopment authority with respect to the installation and comply with the redevelopment plan for the installation.

(ii) Not later than 30 days after acquiring non-Federal real property as the location for a new or replacement Federal facility, the head of the Federal agency acquiring the property shall submit to Congress a report containing the results of the consultation under clause (i) and the reasons why military installations referred to in such clause that are located within the area to be served by the new or replacement Federal facility or within a 200-mile radius of the new or replacement facility, whichever area is greater, were considered to be unsuitable or unavailable for the site of the new or replacement facility.

(iii) This subparagraph shall apply during the period beginning on the date of the enactment of the National Defense Authorization Act for Fiscal Year 1998 and ending on July 31, 2001.

(6)(A) Except as provided in this paragraph, nothing in this section shall limit or otherwise affect the application of the provisions of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11301 et seq.) to military installations closed under this part. For procedures relating to the use to assist the homeless of buildings and property at installations closed under this part after the date of the enactment of this sentence, see paragraph (7).

(B)(i) Not later than the date on which the Secretary of Defense completes the determination under paragraph (5) of the transferability of any portion of an installation to be closed under this part, the Secretary shall—

(I) complete any determinations or surveys necessary to determine whether any building or property referred to in clause (ii) is excess property, surplus property, or unutilized or underutilized property for the purpose of the information referred to in section 501(a) of such Act (42 U.S.C. 11411(a)); and

(II) submit to the Secretary of Housing and Urban Development information on any building or property that is so determined.

(ii) The buildings and property referred to in clause (i) are any buildings or property located at an installation referred to in that clause for which no use is identified, or of which no Federal department or agency will accept transfer, pursuant to the determination of transferability referred to in that clause.

(C) Not later than 60 days after the date on which the Secretary of Defense submits information to the Secretary of Housing and Urban Development under subparagraph (B)(ii), the Secretary of Housing and Urban Development shall--

(i) identify the buildings and property described in such information that are suitable for use to assist the homeless;

(ii) notify the Secretary of Defense of the buildings and property that are so identified;

(iii) publish in the *Federal Register* a list of the buildings and property that are so identified, including with respect to each building or property the information referred to in section 501(c)(1)(B) of such Act; and

(iv) make available with respect to each building and property the information referred to in section 501(c)(1)(C) of such Act in accordance with such section 501(c)(1)(C).

(D) Any buildings and property included in a list published under subparagraph (C)(iii) shall be treated as property available for application for use to assist the homeless under section 501(d) of such Act.

(E) The Secretary of Defense shall make available in accordance with section 501(f) of such Act any buildings or property referred to in subparagraph (D) for which--

(i) a written notice of an intent to use such buildings or property to assist the homeless is received by the Secretary of Health and Human Services in accordance with section 501(d)(2) of such Act;

(ii) an application for use of such buildings or property for such purpose is submitted to the Secretary of Health and Human Services in accordance with section

501(e)(2) of such Act; and

(iii) the Secretary of Health and Human Services—

(I) completes all actions on the application in accordance with section

501(e)(3) of such Act; and

(II) approves the application under section 501(e) of such Act.

(F)(i) Subject to clause (ii), a redevelopment authority may express in writing an interest in using buildings and property referred to subparagraph (D), and buildings and property referred to in subparagraph (B)(ii) which have not been identified as suitable for use to assist the homeless under subparagraph (C), or use such buildings and property, in accordance with the redevelopment plan with respect to the installation at which such buildings and property are located as follows:

(I) If no written notice of an intent to use such buildings or property to assist the homeless is received by the Secretary of Health and Human Services in accordance with section 501(d)(2) of such Act during the 60-day period beginning on the date of the publication of the buildings and property under subparagraph (C)(iii).

(II) In the case of buildings and property for which such notice is so received, if no completed application for use of the buildings or property for such purpose is received by the Secretary of Health and Human Services in accordance with section 501(e)(2) of such Act during the 90-day period beginning on the date of the receipt of such notice.

(III) In the case of buildings and property for which such application is so received, if the Secretary of Health and Human Services rejects the application under section 501(e) of such Act.

(ii) Buildings and property shall be available only for the purpose of permitting a redevelopment authority to express in writing an interest in the use of such buildings and property, or to use such buildings and property, under clause (i) as follows:

(I) In the case of buildings and property referred to in clause (i)(I), during the one-year period beginning on the first day after the 60-day period referred to in that clause.

(II) In the case of buildings and property referred to in clause (i)(II), during the one-year period beginning on the first day after the 90-day period referred to in that clause.

(III) In the case of buildings and property referred to in clause (i)(III), during the one-year period beginning on the date of the rejection of the application referred to in that clause.

(iii) A redevelopment authority shall express an interest in the use of buildings and property under this subparagraph by notifying the Secretary of Defense, in writing, of such an interest.

(G)(i) Buildings and property available for a redevelopment authority under subparagraph (F) shall not be available for use to assist the homeless under section 501 of such Act while so available for a redevelopment authority.

(ii) If a redevelopment authority does not express an interest in the use of buildings or property, or commence the use of buildings or property, under subparagraph (F) within the applicable time periods specified in clause (ii) of such subparagraph, such buildings or property shall be treated as property available for use to assist the homeless under section 501(a) of such Act.

(7)(A) The disposal of buildings and property located at installations approved for closure or realignment under this part after October 25, 1994, shall be carried out in accordance with this paragraph rather than paragraph (6).

(B)(i) Not later than the date on which the Secretary of Defense completes the final determinations referred to in paragraph (5) relating to the use or transferability of any portion of an installation covered by this paragraph, the Secretary shall--

(I) identify the buildings and property at the installation for which the Department of Defense has a use, for which another department or agency of the Federal Government has identified a use, or of which another department or agency will accept a transfer;

(II) take such actions as are necessary to identify any building or property at the installation not identified under subclause (I) that is excess property or surplus property;

(III) submit to the Secretary of Housing and Urban Development and to the redevelopment authority for the installation (or the chief executive officer of the State in which the installation is located if there is no redevelopment authority for the installation at the completion of the determination described in the stem of this sentence) information on any building or property that is identified under subclause (II); and

(IV) publish in the Federal Register and in a newspaper of general circulation in the communities in the vicinity of the installation information on the buildings and property identified under subclause (II).

(ii) Upon the recognition of a redevelopment authority for an installation covered by this paragraph, the Secretary of Defense shall publish in the Federal Register and in a newspaper of general circulation in the communities in the vicinity of the installation information on the redevelopment authority.

(C)(i) State and local governments, representatives of the homeless, and other interested parties located in the communities in the vicinity of an installation covered by this paragraph shall submit to the redevelopment authority for the installation a notice of the interest, if any, of such governments, representatives, and parties in the buildings or property, or any portion thereof, at the installation that are identified under subparagraph (B)(i)(II). A notice of interest under this clause shall describe the need of the government, representative, or party concerned for the buildings or property covered by the notice.

(ii) The redevelopment authority for an installation shall assist the governments, representatives, and parties referred to in clause (i) in evaluating buildings and property at the installation for purposes of this subparagraph.

(iii) In providing assistance under clause (ii), a redevelopment authority shall--

(I) consult with representatives of the homeless in the communities in the vicinity of the installation concerned; and

(II) undertake outreach efforts to provide information on the buildings and property to representatives of the homeless, and to other persons or entities interested in assisting the homeless, in such communities.

(iv) It is the sense of Congress that redevelopment authorities should begin to conduct outreach efforts under clause (iii)(II) with respect to an installation as soon as is practicable after the date of approval of closure or realignment of the installation.

(D)(i) State and local governments, representatives of the homeless, and other interested parties shall submit a notice of interest to a redevelopment authority under subparagraph (C) not

later than the date specified for such notice by the redevelopment authority.

(ii) The date specified under clause (i) shall be-

(I) in the case of an installation for which a redevelopment authority has been recognized as of the date of the completion of the determinations referred to in paragraph (5), not earlier than 3 months and not later than 6 months after the date of publication of such determination in a newspaper of general circulation in the communities in the vicinity of the installation under subparagraph (B)(i)(IV); and

(II) in the case of an installation for which a redevelopment authority is not recognized as of such date, not earlier than 3 months and not later than 6 months after the date of the recognition of a redevelopment authority for the installation.

(iii) Upon specifying a date for an installation under this subparagraph, the redevelopment authority for the installation shall--

(I) publish the date specified in a newspaper of general circulation in the communities in the vicinity of the installation concerned; and

(II) notify the Secretary of Defense of the date.

(E)(i) In submitting to a redevelopment authority under subparagraph (C) a notice of interest in the use of buildings or property at an installation to assist the homeless, a representative of the homeless shall submit the following:

(I) A description of the homeless assistance program that the representative proposes to carry out at the installation.

(II) An assessment of the need for the program.

(III) A description of the extent to which the program is or will be coordinated with other homeless assistance programs in the communities in the vicinity of the installation.

(IV) A description of the buildings and property at the installation that are necessary in order to carry out the program.

(V) A description of the financial plan, the organization, and the organizational capacity of the representative to carry out the program.

(VI) An assessment of the time required in order to commence carrying out the program.

(ii) A redevelopment authority may not release to the public any information submitted to the redevelopment authority under clause (i)(V) without the consent of the representative of the homeless concerned unless such release is authorized under Federal law and under the law of the State and communities in which the installation concerned is located.

(F)(i) The redevelopment authority for each installation covered by this paragraph shall prepare a redevelopment plan for the installation. The redevelopment authority shall, in preparing the plan, consider the interests in the use to assist the homeless of the buildings and property at the installation that are expressed in the notices submitted to the redevelopment authority under subparagraph (C).

(ii)(I) In connection with a redevelopment plan for an installation, a redevelopment authority and representatives of the homeless shall prepare legally binding agreements that provide for the use to assist the homeless of buildings and property, resources, and assistance on or off the installation. The implementation of such agreements shall be contingent upon the decision regarding the disposal of the buildings and property covered by the agreements by the

Secretary of Defense under subparagraph (K) or (L).

(II) Agreements under this clause shall provide for the reversion to the redevelopment authority concerned, or to such other entity or entities as the agreements shall provide, of buildings and property that are made available under this paragraph for use to assist the homeless in the event that such buildings and property cease being used for that purpose.

(iii) A redevelopment authority shall provide opportunity for public comment on a redevelopment plan before submission of the plan to the Secretary of Defense and the Secretary of Housing and Urban Development under subparagraph (G).

(iv) A redevelopment authority shall complete preparation of a redevelopment plan for an installation and submit the plan under subparagraph (G) not later than 9 months after the date specified by the redevelopment authority for the installation under subparagraph (D).

(G)(i) Upon completion of a redevelopment plan under subparagraph (F), a redevelopment authority shall submit an application containing the plan to the Secretary of Defense and to the Secretary of Housing and Urban Development.

(ii) A redevelopment authority shall include in an application under clause (i) the following:

(I) A copy of the redevelopment plan, including a summary of any public comments on the plan received by the redevelopment authority under subparagraph (F)(iii).

(II) A copy of each notice of interest of use of buildings and property to assist the homeless that was submitted to the redevelopment authority under subparagraph (C), together with a description of the manner, if any, in which the plan addresses the interest expressed in each such notice and, if the plan does not address such an interest, an explanation why the plan does not address the interest.

(III) A summary of the outreach undertaken by the redevelopment authority under subparagraph (C)(iii)(II) in preparing the plan.

(IV) A statement identifying the representatives of the homeless and the homeless assistance planning boards, if any, with which the redevelopment authority consulted in preparing the plan, and the results of such consultations.

(V) An assessment of the manner in which the redevelopment plan balances the expressed needs of the homeless and the need of the communities in the vicinity of the installation for economic redevelopment and other development.

(VI) Copies of the agreements that the redevelopment authority proposes to enter into under subparagraph (F)(ii).

(H)(i) Not later than 60 days after receiving a redevelopment plan under subparagraph (G), the Secretary of Housing and Urban Development shall complete a review of the plan. The purpose of the review is to determine whether the plan, with respect to the expressed interest and requests of representatives of the homeless--

(I) takes into consideration the size and nature of the homeless population in the communities in the vicinity of the installation, the availability of existing services in such communities to meet the needs of the homeless in such communities, and the suitability of the buildings and property covered by the plan for the use and needs of the homeless in such communities;

(II) takes into consideration any economic impact of the homeless assistance

under the plan on the communities in the vicinity of the installation;

(III) balances in an appropriate manner the needs of the communities in the vicinity of the installation for economic redevelopment and other development with the needs of the homeless in such communities;

(IV) was developed in consultation with representatives of the homeless and the homeless assistance planning boards, if any, in the communities in the vicinity of the installation; and

(V) specifies the manner in which buildings and property, resources, and assistance on or off the installation will be made available for homeless assistance purposes.

(ii) It is the sense of Congress that the Secretary of Housing and Urban Development shall, in completing the review of a plan under this subparagraph, take into consideration and be receptive to the predominant views on the plan of the communities in the vicinity of the installation covered by the plan.

(iii) The Secretary of Housing and Urban Development may engage in negotiations and consultations with a redevelopment authority before or during the course of a review under clause (i) with a view toward resolving any preliminary determination of the Secretary that a redevelopment plan does not meet a requirement set forth in that clause. The redevelopment authority may modify the redevelopment plan as a result of such negotiations and consultations.

(iv) Upon completion of a review of a redevelopment plan under clause (i), the Secretary of Housing and Urban Development shall notify the Secretary of Defense and the redevelopment authority concerned of the determination of the Secretary of Housing and Urban Development under that clause.

(v) If the Secretary of Housing and Urban Development determines as a result of such a review that a redevelopment plan does not meet the requirements set forth in clause (i), a notice under clause (iv) shall include--

(I) an explanation of that determination; and

(II) a statement of the actions that the redevelopment authority must undertake in order to address that determination.

(I)(i) Upon receipt of a notice under subparagraph (H)(iv) of a determination that a redevelopment plan does not meet a requirement set forth in subparagraph (H)(i), a redevelopment authority shall have the opportunity to--

(I) revise the plan in order to address the determination; and

(II) submit the revised plan to the Secretary of Defense and the Secretary of Housing and Urban Development.

(ii) A redevelopment authority shall submit a revised plan under this subparagraph to such Secretaries, if at all, not later than 90 days after the date on which the redevelopment authority receives the notice referred to in clause (i).

(J)(i) Not later than 30 days after receiving a revised redevelopment plan under subparagraph (I), the Secretary of Housing and Urban Development shall review the revised plan and determine if the plan meets the requirements set forth in subparagraph (H)(i).

(ii) The Secretary of Housing and Urban Development shall notify the Secretary of Defense and the redevelopment authority concerned of the determination of the Secretary of Housing and Urban Development under this subparagraph.

(K)(i) Upon receipt of a notice under subparagraph (H)(iv) or (J)(ii) of the determination of the Secretary of Housing and Urban Development that a redevelopment plan for an installation meets the requirements set forth in subparagraph (H)(i), the Secretary of Defense shall dispose of the buildings and property at the installation.

(ii) For purposes of carrying out an environmental assessment of the closure or realignment of an installation, the Secretary of Defense shall treat the redevelopment plan for the installation (including the aspects of the plan providing for disposal to State or local governments, representatives of the homeless, and other interested parties) as part of the proposed Federal action for the installation.

(iii) The Secretary of Defense shall dispose of buildings and property under clause (i) in accordance with the record of decision or other decision document prepared by the Secretary in accordance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.). In preparing the record of decision or other decision document, the Secretary shall give substantial deference to the redevelopment plan concerned.

(iv) The disposal under clause (i) of buildings and property to assist the homeless shall be without consideration.

(v) In the case of a request for a conveyance under clause (i) of buildings and property for public benefit under section 550 of title 40, United States Code, or sections 47151 through 47153 of title 49, United States Code, the sponsoring Federal agency shall use the eligibility criteria set forth in such section or such subchapter (as the case may be) to determine the eligibility of the applicant and use proposed in the request for the public benefit conveyance. The determination of such eligibility should be made before submission of the redevelopment plan concerned under subparagraph (G).

(L)(i) If the Secretary of Housing and Urban Development determines under subparagraph (J) that a revised redevelopment plan for an installation does not meet the requirements set forth in subparagraph (H)(i), or if no revised plan is so submitted, that Secretary shall--

(I) review the original redevelopment plan submitted to that Secretary under subparagraph (G), including the notice or notices of representatives of the homeless referred to in clause (ii)(II) of that subparagraph;

(II) consult with the representatives referred to in subclause (I), if any, for purposes of evaluating the continuing interest of such representatives in the use of buildings or property at the installation to assist the homeless;

(III) request that each such representative submit to that Secretary the items described in clause (ii); and

(IV) based on the actions of that Secretary under subclauses (I) and (II), and on any information obtained by that Secretary as a result of such actions, indicate to the Secretary of Defense the buildings and property at the installation that meet the requirements set forth in subparagraph (H)(i).

(ii) The Secretary of Housing and Urban Development may request under clause (i)(III) that a representative of the homeless submit to that Secretary the following:

(I) A description of the program of such representative to assist the homeless.

(II) A description of the manner in which the buildings and property that the representative proposes to use for such purpose will assist the homeless.

(III) Such information as that Secretary requires in order to determine the financial capacity of the representative to carry out the program and to ensure that the program will be carried out in compliance with Federal environmental law and Federal law against discrimination.

(IV) A certification that police services, fire protection services, and water and sewer services available in the communities in the vicinity of the installation concerned are adequate for the program.

(iii) Not later than 90 days after the date of the receipt of a revised plan for an installation under subparagraph (J), the Secretary of Housing and Urban Development shall--

(I) notify the Secretary of Defense and the redevelopment authority concerned of the buildings and property at an installation under clause (i)(IV) that the Secretary of Housing and Urban Development determines are suitable for use to assist the homeless; and

(II) notify the Secretary of Defense of the extent to which the revised plan meets the criteria set forth in subparagraph (H)(i).

(iv)(I) Upon notice from the Secretary of Housing and Urban Development with respect to an installation under clause (iii), the Secretary of Defense shall dispose of buildings and property at the installation in consultation with the Secretary of Housing and Urban Development and the redevelopment authority concerned.

(II) For purposes of carrying out an environmental assessment of the closure or realignment of an installation, the Secretary of Defense shall treat the redevelopment plan submitted by the redevelopment authority for the installation (including the aspects of the plan providing for disposal to State or local governments, representatives of the homeless, and other interested parties) as part of the proposed Federal action for the installation. The Secretary of Defense shall incorporate the notification of the Secretary of Housing and Urban Development under clause (iii)(I) as part of the proposed Federal action for the installation only to the extent, if any, that the Secretary of Defense considers such incorporation to be appropriate and consistent with the best and highest use of the installation as a whole, taking into consideration the redevelopment plan submitted by the redevelopment authority.

(III) The Secretary of Defense shall dispose of buildings and property under subclause (I) in accordance with the record of decision or other decision document prepared by the Secretary in accordance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.). In preparing the record of decision or other decision document, the Secretary shall give deference to the redevelopment plan submitted by the redevelopment authority for the installation.

(IV) The disposal under subclause (I) of buildings and property to assist the homeless shall be without consideration.

(V) In the case of a request for a conveyance under subclause (I) of buildings and property for public benefit under section 550 of title 40, United States Code, or sections 47151 through 47153 of title 49, United States Code, the sponsoring Federal agency shall use the eligibility criteria set forth in such section or such subchapter (as the case may be) to determine the eligibility of the applicant and use proposed in the request for the public benefit conveyance. The determination of such eligibility should be made before submission of the redevelopment plan concerned under subparagraph (G).

(M)(i) In the event of the disposal of buildings and property of an installation pursuant to

subparagraph (K) or (L), the redevelopment authority for the installation shall be responsible for the implementation of and compliance with agreements under the redevelopment plan described in that subparagraph for the installation.

(ii) If a building or property reverts to a redevelopment authority under such an agreement, the redevelopment authority shall take appropriate actions to secure, to the maximum extent practicable, the utilization of the building or property by other homeless representatives to assist the homeless. A redevelopment authority may not be required to utilize the building or property to assist the homeless.

(N) The Secretary of Defense may postpone or extend any deadline provided for under this paragraph in the case of an installation covered by this paragraph for such period as the Secretary considers appropriate if the Secretary determines that such postponement is in the interests of the communities affected by the closure or realignment of the installation. The Secretary shall make such determinations in consultation with the redevelopment authority concerned and, in the case of deadlines provided for under this paragraph with respect to the Secretary of Housing and Urban Development, in consultation with the Secretary of Housing and Urban Development.

(O) For purposes of this paragraph, the term "communities in the vicinity of the installation", in the case of an installation, means the communities that constitute the political jurisdictions (other than the State in which the installation is located) that comprise the redevelopment authority for the installation.

(P) For purposes of this paragraph, the term "other interested parties", in the case of an installation, includes any parties eligible for the conveyance of property of the installation under section 550 of title 40, United States Code, or sections 47151 through 47153 of title 49, United States Code, whether or not the parties assist the homeless.

(8)(A) Subject to subparagraph (C), the Secretary may enter into agreements (including contracts, cooperative agreements, or other arrangements for reimbursement) with local governments for the provision of police or security services, fire protection services, airfield operation services, or other community services by such governments at military installations to be closed under this part, or at facilities not yet transferred or otherwise disposed of in the case of installations closed under this part, if the Secretary determines that the provision of such services under such agreements is in the best interests of the Department of Defense.

(B) The Secretary may exercise the authority provided under this paragraph without regard to the provisions of chapter 146 of title 10, United States Code.

(C) The Secretary may not exercise the authority under subparagraph (A) with respect to an installation earlier than 180 days before the date on which the installation is to be closed.

(D) The Secretary shall include in a contract for services entered into with a local government under this paragraph a clause that requires the use of professionals to furnish the services to the extent that professionals are available in the area under the jurisdiction of such government.

(c) APPLICABILITY OF NATIONAL ENVIRONMENTAL POLICY ACT OF 1969.--(1) The provisions of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) shall not apply to the actions of the President, the Commission, and, except as provided in paragraph (2), the Department of Defense in carrying out this part.

(2)(A) The provisions of the National Environmental Policy Act of 1969 shall apply to actions of the Department of Defense under this part (i) during the process of property disposal, and (ii) during the process of relocating functions from a military installation being closed or realigned to another military installation after the receiving installation has been selected but before the functions are relocated.

(B) In applying the provisions of the National Environmental Policy Act of 1969 to the processes referred to in subparagraph (A), the Secretary of Defense and the Secretary of the military departments concerned shall not have to consider--

- (i) the need for closing or realigning the military installation which has been recommended for closure or realignment by the Commission;
- (ii) the need for transferring functions to any military installation which has been selected as the receiving installation; or
- (iii) military installations alternative to those recommended or selected.

(3) A civil action for judicial review, with respect to any requirement of the National Environmental Policy Act of 1969 to the extent such Act is applicable under paragraph (2), of any act or failure to act by the Department of Defense during the closing, realigning, or relocating of functions referred to in clauses (i) and (ii) of paragraph (2)(A), may not be brought more than 60 days after the date of such act or failure to act.

(d) WAIVER.--The Secretary of Defense may close or realign military installations under this part without regard to--

- (1) any provision of law restricting the use of funds for closing or realigning military installations included in any appropriations or authorization Act; and
- (2) sections 2662 and 2687 of title 10, United States Code.

(e) TRANSFER AUTHORITY IN CONNECTION WITH PAYMENT OF ENVIRONMENTAL REMEDIATION COSTS.--(1)(A) Subject to paragraph (2) of this subsection and section 120(h) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9620(h)), the Secretary may enter into an agreement to transfer by deed real property or facilities referred to in subparagraph (B) with any person who agrees to perform all environmental restoration, waste management, and environmental compliance activities that are required for the property or facilities under Federal and State laws, administrative decisions, agreements (including schedules and milestones), and concurrences.

(B) The real property and facilities referred to in subparagraph (A) are the real property and facilities located at an installation closed or to be closed, or realigned or to be realigned, under this part that are available exclusively for the use, or expression of an interest in a use, of a redevelopment authority under subsection (b)(6)(F) during the period provided for that use, or expression of interest in use, under that subsection. The real property and facilities referred to in subparagraph (A) are also the real property and facilities located at an installation approved for closure or realignment under this part after 2001 that are available for purposes other than to assist the homeless.

(C) The Secretary may require any additional terms and conditions in connection with an agreement authorized by subparagraph (A) as the Secretary considers appropriate to protect the interests of the United States.

(2) A transfer of real property or facilities may be made under paragraph (1) only if the Secretary certifies to Congress that--

(A) the costs of all environmental restoration, waste management, and environmental compliance activities otherwise to be paid by the Secretary with respect to the property or facilities are equal to or greater than the fair market value of the property or facilities to be transferred, as determined by the Secretary; or

(B) if such costs are lower than the fair market value of the property or facilities, the recipient of the property or facilities agrees to pay the difference between the fair market value and such costs.

(3) In the case of property or facilities covered by a certification under paragraph (2)(A), the Secretary may pay the recipient of such property or facilities an amount equal to the lesser of--

(A) the amount by which the costs incurred by the recipient of such property or facilities for all environmental restoration, waste, management, and environmental compliance activities with respect to such property or facilities exceed the fair market value of such property or facilities as specified in such certification; or

(B) the amount by which the costs (as determined by the Secretary) that would otherwise have been incurred by the Secretary for such restoration, management, and activities with respect to such property or facilities exceed the fair market value of such property or facilities as so specified

(4) As part of an agreement under paragraph (1), the Secretary shall disclose to the person to whom the property or facilities will be transferred any information of the Secretary regarding the environmental restoration, waste management, and environmental compliance activities described in paragraph (1) that relate to the property or facilities. The Secretary shall provide such information before entering into the agreement.

(5) Nothing in this subsection shall be construed to modify, alter, or amend the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.) or the Solid Waste Disposal Act (42 U.S.C. 6901 et seq.).

(6) Section 330 of the National Defense Authorization Act for Fiscal Year 1993 (Public Law 102-484; 10 U.S.C. 2687 note) shall not apply to any transfer under this subsection to persons or entities described in subsection (a)(2) of such section 330, except in the case of releases or threatened releases not disclosed pursuant to paragraph (4).

SEC. 2906. DEPARTMENT OF DEFENSE BASE CLOSURE ACCOUNT 1990

(a) IN GENERAL.--(1) There is hereby established on the books of the Treasury an account to be known as the "Department of Defense Base Closure Account 1990" which shall be administered by the Secretary as a single account.

(2) There shall be deposited into the Account--

(A) funds authorized for and appropriated to the Account;

(B) any funds that the Secretary may, subject to approval in an appropriation Act, transfer to the Account from funds appropriated to the Department of Defense for any purpose, except that such funds may be transferred only after the date on which the Secretary transmits written notice of, and justification for, such transfer to the

congressional defense committees;

(C) except as provided in subsection (d), proceeds received from the lease, transfer, or disposal of any property at a military installation closed or realigned under this part the date of approval of closure or realignment of which is before January 1, 2005; and

(D) proceeds received after September 30, 1995, from the lease, transfer, or disposal of any property at a military installation closed or realigned under title II of the Defense Authorization Amendments and Base Closure and Realignment Act (Public Law 100-526; 10 U.S.C. 2687 note).

(3) The Account shall be closed at the time and in the manner provided for appropriation accounts under section 1555 of title 31, United States Code. Unobligated funds which remain in the Account upon closure shall be held by the Secretary of the Treasury until transferred by law after the congressional defense committees receive the final report transmitted under subsection (c)(2).

(b) USE OF FUNDS.--(1) The Secretary may use the funds in the Account only for the purposes described in section 2905 with respect to military installations the date of approval of closure or realignment of which is before January 1, 2005, or, after September 30, 1995, for environmental restoration and property management and disposal at installations closed or realigned under title II of the Defense Authorization Amendments and Base Closure and Realignment Act (Public Law 100-526; 10 U.S.C. 2687 note). After July 13, 2001, the Account shall be the sole source of Federal funds for environmental restoration, property management, and other caretaker costs associated with any real property at military installations closed or realigned under this part or such title II.

(2) When a decision is made to use funds in the Account to carry out a construction project under section 2905(a) and the cost of the project will exceed the maximum amount authorized by law for a minor military construction project, the Secretary shall notify in writing the congressional defense committees of the nature of, and justification for, the project and the amount of expenditures for such project. Any such construction project may be carried out without regard to section 2802(a) of title 10, United States Code.

(c) REPORTS.--(1)(A) No later than 60 days after the end of each fiscal year in which the Secretary carries out activities under this part, the Secretary shall transmit a report to the congressional defense committees of the amount and nature of the deposits into, and the expenditures from, the Account during such fiscal year and of the amount and nature of other expenditures made pursuant to section 2905(a) during such fiscal year.

(B) The report for a fiscal year shall include the following:

(i) The obligations and expenditures from the Account during the fiscal year, identified by subaccount, for each military department and Defense Agency.

(ii) The fiscal year in which appropriations for such expenditures were made and the fiscal year in which funds were obligated for such expenditures.

(iii) Each military construction project for which such obligations and expenditures were made, identified by installation and project title.

(iv) A description and explanation of the extent, if any, to which expenditures for

military construction projects for the fiscal year differed from proposals for projects and funding levels that were included in the justification transmitted to Congress under section 2907(1), or otherwise, for the funding proposals for the Account for such fiscal year, including an explanation of--

(I) any failure to carry out military construction projects that were so proposed; and

(II) any expenditures for military construction projects that were not so proposed.

(2) No later than 60 days after the termination of the authority of the Secretary to carry out a closure or realignment under this part with respect to military installations the date of approval of closure or realignment of which is before January 1, 2005, and no later than 60 days after the closure of the Account under subsection (a)(3), the Secretary shall transmit to the congressional defense committees a report containing an accounting of--

(A) all the funds deposited into and expended from the Account or otherwise expended under this part with respect to such installations; and

(B) any amount remaining in the Account.

(d) DISPOSAL OR TRANSFER OF COMMISSARY STORES AND PROPERTY PURCHASED WITH NONAPPROPRIATED FUNDS.--(1) If any real property or facility acquired, constructed, or improved (in whole or in part) with commissary store funds or nonappropriated funds is transferred or disposed of in connection with the closure or realignment of a military installation under this part the date of approval of closure or realignment of which is before January 1, 2005, a portion of the proceeds of the transfer or other disposal of property on that installation shall be deposited in the reserve account established under section 204(b)(7)(C) of the Defense Authorization Amendments and Base Closure and Realignment Act (10 U.S.C. 2687 note).

(2) The amount so deposited shall be equal to the depreciated value of the investment made with such funds in the acquisition, construction, or improvement of that particular real property or facility. The depreciated value of the investment shall be computed in accordance with regulations prescribed by the Secretary of Defense.

(3) The Secretary may use amounts in the account (in such an aggregate amount as is provided in advance in appropriation Acts) for the purpose of acquiring, constructing, and improving--

(A) commissary stores; and

(B) real property and facilities for nonappropriated fund instrumentalities.

(4) As used in this subsection:

(A) The term "commissary store funds" means funds received from the adjustment of, or surcharge on, selling prices at commissary stores fixed under section 2685 of title 10, United States Code.

(B) The term "nonappropriated funds" means funds received from a nonappropriated fund instrumentality.

(C) The term "nonappropriated fund instrumentality" means an instrumentality of the United States under the jurisdiction of the Armed Forces (including the Army and Air Force Exchange Service, the Navy Resale and Services Support Office, and the Marine Corps exchanges) which is conducted for the comfort, pleasure, contentment, or physical

or mental improvement of members of the Armed Forces.

(e) ACCOUNT EXCLUSIVE SOURCE OF FUNDS FOR ENVIRONMENTAL RESTORATION PROJECTS.—Except as provided in section 2906A(e) with respect to funds in the Department of Defense Base Closure Account 2005 under section 2906A and except for funds deposited into the Account under subsection (a), funds appropriated to the Department of Defense may not be used for purposes described in section 2905 (a)(1)(C). The prohibition in this subsection shall expire upon the closure of the Account under subsection (a)(3).

SEC. 2906A. DEPARTMENT OF DEFENSE BASE CLOSURE ACCOUNT 2005.

(a) IN GENERAL.—(1) If the Secretary makes the certifications required under section 2912(b), there shall be established on the books of the Treasury an account to be known as the "Department of Defense Base Closure Account 2005" (in this section referred to as the "Account"). The Account shall be administered by the Secretary as a single account.

(2) There shall be deposited into the Account—

(A) funds authorized for and appropriated to the Account;

(B) any funds that the Secretary may, subject to approval in an appropriation Act, transfer to the Account from funds appropriated to the Department of Defense for any purpose, except that such funds may be transferred only after the date on which the Secretary transmits written notice of, and justification for, such transfer to the congressional defense committees; and

(C) except as provided in subsection (d), proceeds received from the lease, transfer, or disposal of any property at a military installation that is closed or realigned under this part pursuant to a closure or realignment the date of approval of which is after January 1, 2005.

(3) The Account shall be closed at the time and in the manner provided for appropriation accounts under section 1555 of title 31, United States Code. Unobligated funds which remain in the Account upon closure shall be held by the Secretary of the Treasury until transferred by law after the congressional defense committees receive the final report transmitted under subsection (c)(2),

(b) USE OF FUNDS.—(1) The Secretary may use the funds in the Account only for the purposes described in section 2905 with respect to military installations the date of approval of closure or realignment of which is after January 1, 2005.

(2) When a decision is made to use funds in the Account to carry out a construction project under section 2905(a) and the cost of the project will exceed the maximum amount authorized by law for a minor military construction project, the Secretary shall notify in writing the congressional defense committees of the nature of, and justification for, the project and the amount of expenditures for such project. Any such construction project may be carried out without regard to section 2802(a) of title 10, United States Code.

(c) REPORTS.—(1)(A) No later than 60 days after the end of each fiscal year in which the

Secretary carries out activities under this part using amounts in the Account, the Secretary shall transmit a report to the congressional defense committees of the amount and nature of the deposits into, and the expenditures from, the Account during such fiscal year and of the amount and nature of other expenditures made pursuant to section 2905(a) during such fiscal year.

(B) The report for a fiscal year shall include the following:

(i) The obligations and expenditures from the Account during the fiscal year, identified by subaccount, for each military department and Defense Agency.

(ii) The fiscal year in which appropriations for such expenditures were made and the fiscal year in which funds were obligated for such expenditures.

(iii) Each military construction project for which such obligations and expenditures were made, identified by installation and project title.

(iv) A description and explanation of the extent, if any, to which expenditures for military construction projects for the fiscal year differed from proposals for projects and funding levels that were included in the justification transmitted to Congress under section 2907(1), or otherwise, for the funding proposals for the Account for such fiscal year, including an explanation of—

(I) any failure to carry out military construction projects that were so proposed; and

(II) any expenditures for military construction projects that were not so proposed.

(2) No later than 60 days after the termination of the authority of the Secretary to carry out a closure or realignment under this part with respect to military installations the date of approval of closure or realignment of which is after January 1, 2005, and no later than 60 days after the closure of the Account under subsection (a)(3), the Secretary shall transmit to the congressional defense committees a report containing an accounting of—

(A) all the funds deposited into and expended from the Account or otherwise expended under this part with respect to such installations; and

(B) any amount remaining in the Account.

(d) DISPOSAL OR TRANSFER OF COMMISSARY STORES AND PROPERTY PURCHASED WITH NONAPPROPRIATED FUNDS.—(1) If any real property or facility acquired, constructed, or improved (in whole or in part) with commissary store funds or nonappropriated funds is transferred or disposed of in connection with the closure or realignment of a military installation under this part the date of approval of closure or realignment of which is after January 1, 2005, a portion of the proceeds of the transfer or other disposal of property on that installation shall be deposited in the reserve account established under section 204(b)(7)(C) of the Defense Authorization Amendments and Base Closure and Realignment Act (10 U.S.C. 2687 note).

(2) The amount so deposited shall be equal to the depreciated value of the investment made with such funds in the acquisition, construction, or improvement of that particular real property or facility. The depreciated value of the investment shall be computed in accordance with regulations prescribed by the Secretary.

(3) The Secretary may use amounts in the reserve account, without further appropriation, for the purpose of acquiring, constructing, and improving—

(A) commissary stores; and

(B) real property and facilities for nonappropriated fund instrumentalities.

(4) In this subsection, the terms commissary store funds", "nonappropriated funds", and "nonappropriated fund instrumentality" shall have the meaning given those terms in section 2906(d)(4).

(e) ACCOUNT EXCLUSIVE SOURCE OF FUNDS FOR ENVIRONMENTAL RESTORATION PROJECTS.—Except as provided in section 2906(e) with respect to funds in the Department of Defense Base Closure Account 1990 under section 2906 and except for funds deposited into the Account under subsection (a), funds appropriated to the Department of Defense may not be used for purposes described in section 2905(a)(1)(C). The prohibition in this subsection shall expire upon the closure of the Account under subsection (a)(3).

SEC. 2907. REPORTS

As part of the budget request for fiscal year 1993 and for each fiscal year thereafter for the Department of Defense, the Secretary shall transmit to the congressional defense committees of Congress--

(1) a schedule of the closure and realignment actions to be carried out under this part in the fiscal year for which the request is made and an estimate of the total expenditures required and cost savings to be achieved by each such closure and realignment and of the time period in which these savings are to be achieved in each case, together with the Secretary's assessment of the environmental effects of such actions; and

(2) a description of the military installations, including those under construction and those planned for construction, to which functions are to be transferred as a result of such closures and realignments, together with the Secretary's assessment of the environmental effects of such transfers.

SEC. 2908. CONGRESSIONAL CONSIDERATION OF COMMISSION REPORT

(a) TERMS OF THE RESOLUTION.--For purposes of section 2904(b), the term "joint resolution" means only a joint resolution which is introduced within the 10-day period beginning on the date on which the President transmits the report to the Congress under section 2903(e), and--

(1) which does not have a preamble;

(2) the matter after the resolving clause of which is as follows: "That Congress disapproves the recommendations of the Defense Base Closure and Realignment Commission as submitted by the President on _____", the blank space being filled in with the appropriate date; and

(3) the title of which is as follows: "Joint resolution disapproving the recommendations of the Defense Base Closure and Realignment Commission."

(b) REFERRAL.--A resolution described in subsection (a) that is introduced in the House of Representatives shall be referred to the Committee on Armed Services of the House of Representatives. A resolution described in subsection (a) introduced in the Senate shall be

referred to the Committee on Armed Services of the Senate.

(c) DISCHARGE.--If the committee to which a resolution described in subsection (a) is referred has not reported such a resolution (or an identical resolution) by the end of the 20-day period beginning on the date on which the President transmits the report to the Congress under section 2903(e), such committee shall be, at the end of such period, discharged from further consideration of such resolution, and such resolution shall be placed on the appropriate calendar of the House involved.

(d) CONSIDERATION.--(1) On or after the third day after the date on which the committee to which such a resolution is referred has reported, or has been discharged (under subsection (c)) from further consideration of, such a resolution, it is in order (even though a previous motion to the same effect has been disagreed to) for any Member of the respective House to move to proceed to the consideration of the resolution. A member may make the motion only on the day after the calendar day on which the Member announces to the House concerned the Member's intention to make the motion, except that, in the case of the House of Representatives, the motion may be made without such prior announcement if the motion is made by direction of the committee to which the resolution was referred. The motion is highly privileged in the House of Representatives and is privileged in the Senate and is not debatable. The motion is not subject to amendment, or to a motion to postpone, or to a motion to proceed to the consideration of other business. A motion to reconsider the vote by which the motion is agreed to or disagreed to shall not be in order. If a motion to proceed to the consideration of the resolution is agreed to, the respective House shall immediately proceed to consideration of the joint resolution without intervening motion, order, or other business, and the resolution shall remain the unfinished business of the respective House until disposed of.

(2) Debate on the resolution, and on all debatable motions and appeals in connection therewith, shall be limited to not more than 2 hours, which shall be divided equally between those favoring and those opposing the resolution. An amendment to the resolution is not in order. A motion further to limit debate is in order and not debatable. A motion to postpone, or a motion to proceed to the consideration of other business, or a motion to recommit the resolution is not in order. A motion to reconsider the vote by which the resolution is agreed to or disagreed to is not in order.

(3) Immediately following the conclusion of the debate on a resolution described in subsection (a) and a single quorum call at the conclusion of the debate if requested in accordance with the rules of the appropriate House, the vote on final passage of the resolution shall occur.

(4) Appeals from the decisions of the Chair relating to the application of the rules of the Senate or the House of Representatives, as the case may be, to the procedure relating to a resolution described in subsection (a) shall be decided without debate.

(e) CONSIDERATION BY OTHER HOUSE.--(1) If, before the passage by one House of a resolution of that House described in subsection (a), that House receives from the other House a resolution described in subsection (a), then the following procedures shall apply:

(A) The resolution of the other House shall not be referred to a committee and may not be considered in the House receiving it except in the case of final passage as

provided in subparagraph (B)(ii).

(B) With respect to a resolution described in subsection (a) of the House receiving the resolution--

(i) the procedure in that House shall be the same as if no resolution had been received from the other House; but

(ii) the vote on final passage shall be on the resolution of the other House.

(2) Upon disposition of the resolution received from the other House, it shall no longer be in order to consider the resolution that originated in the receiving House.

(f) RULES OF THE SENATE AND HOUSE.--This section is enacted by Congress--

(1) as an exercise of the rulemaking power of the Senate and House of Representatives, respectively, and as such it is deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in that House in the case of a resolution described in subsection (a), and it supersedes other rules only to the extent that it is inconsistent with such rules; and

(2) with full recognition of the constitutional right of either House to change the rules (so far as relating to the procedure of that House) at any time, in the same manner, and to the same extent as in the case of any other rule of that House.

SEC. 2909. RESTRICTION ON OTHER BASE CLOSURE AUTHORITY

(a) IN GENERAL.--Except as provided in subsection (c), during the period beginning on November 5, 1990, and ending on April 15, 2006, this part shall be the exclusive authority for selecting for closure or realignment, or for carrying out any closure or realignment of, a military installation inside the United States.

(b) RESTRICTION.--Except as provided in subsection (c), none of the funds available to the Department of Defense may be used, other than under this part, during the period specified in subsection (a)

(1) to identify, through any transmittal to the Congress or through any other public announcement or notification, any military installation inside the United States as an installation to be closed or realigned or as an installation under consideration for closure or realignment; or

(2) to carry out any closure or realignment of a military installation inside the United States.

(c) EXCEPTION.--Nothing in this part affects the authority of the Secretary to carry out

(1) closures and realignments under title II of Public Law 100-526; and

(2) closures and realignments to which section 2687 of title 10, United States Code, is not applicable, including closures and realignments carried out for reasons of national security or a military emergency referred to in subsection (c) of such section.

SEC. 2910. DEFINITIONS

As used in this part:

(1) The term "Account" means the Department of Defense Base Closure Account 1990 established by section 2906(a)(1).

(2) The term "congressional defense committees" means the Committee on Armed Services and the Committee on Appropriations of the Senate and the Committee on Armed Services and the Committee on Appropriations of the House of Representatives.

(3) The term "Commission" means the Commission established by section 2902.

(4) The term "military installation" means a base, camp, post, station, yard, center, homeport facility for any ship, or other activity under the jurisdiction of the Department of Defense, including any leased facility. Such term does not include any facility used primarily for civil works, rivers and harbors projects, flood control, or other projects not under the primary jurisdiction or control of the Department of Defense. [*The preceding sentence shall take effect as of November 5, 1990, and shall apply as if it had been included in section 2910(4) of the Defense Base Closure and Realignment Act of 1990 on that date.*]

(5) The term "realignment" includes any action which both reduces and relocates functions and civilian personnel positions but does not include a reduction in force resulting from workload adjustments, reduced personnel or funding levels, or skill imbalances.

(6) The term "Secretary" means the Secretary of Defense.

(7) The term "United States" means the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands, American Samoa, and any other commonwealth, territory, or possession of the United States.

(8) The term "date of approval", with respect to a closure or realignment of an installation, means the date on which the authority of Congress to disapprove a recommendation of closure or realignment, as the case may be, of such installation under this part expires. [*The date of approval of closure of any installation approved for closure before November 30, 1993 shall be deemed to be November 30, 1993.*]

(9) The term "redevelopment authority", in the case of an installation to be closed or realigned under this part, means any entity (including an entity established by a State or local government) recognized by the Secretary of Defense as the entity responsible for developing the redevelopment plan with respect to the installation or for directing the implementation of such plan. [*The above revision shall take effect as if included in the amendments made by section 2918 of Pub. L. 103-160.*]

(10) The term "redevelopment plan" in the case of an installation to be closed or realigned under this part, means a plan that--

(A) is agreed to by the local redevelopment authority with respect to the installation; and

(B) provides for the reuse or redevelopment of the real property and personal property of the installation that is available for such reuse and redevelopment as a result of the closure or realignment of the installation.

(11) The term "representative of the homeless" has the meaning given such term in section 501(i)(4) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11411(i)(4)).

SEC. 2911. CLARIFYING AMENDMENT

Section 2687(e)(1) of title 10, United States Code, is amended--

- (1) by inserting "homeport facility for any ship," after "center,"; and
- (2) by striking out "under the jurisdiction of the Secretary of a military department" and inserting in lieu thereof "under the jurisdiction of the Department of Defense, including any leased facility,".

SEC. 2912. 2005 ROUND OF REALIGNMENTS AND CLOSURES OF MILITARY INSTALLATIONS.

(a) **FORCE-STRUCTURE PLAN AND INFRASTRUCTURE INVENTORY.**—

(1) **PREPARATION AND SUBMISSION.**—As part of the budget justification documents submitted to Congress in support of the budget for the Department of Defense for fiscal year 2005, the Secretary shall include the following:

(A) A force-structure plan for the Armed Forces based on an assessment by the Secretary of the probable threats to the national security during the 20-year period beginning with fiscal year 2005, the probable end-strength levels and major military force units (including land force divisions, carrier and other major combatant vessels, air wings, and other comparable units) needed to meet these threats, and the anticipated levels of funding that will be available for national defense purposes during such period.

(B) A comprehensive inventory of military installations world-wide for each military department, with specifications of the number and type of facilities in the active and reserve forces of each military department.

(2) **RELATIONSHIP OF PLAN AND INVENTORY.**— Using the force-structure plan and infrastructure inventory prepared under paragraph (1), the Secretary shall prepare (and include as part of the submission of such plan and inventory) the following:

(A) A description of the infrastructure necessary to support the force structure described in the force-structure plan.

(B) A discussion of categories of excess infrastructure and infrastructure capacity.

(C) An economic analysis of the effect of the closure or realignment of military installations to reduce excess infrastructure.

(3) **SPECIAL CONSIDERATIONS.**—In determining the level of necessary versus excess infrastructure under paragraph (2), the Secretary shall consider the following:

(A) The anticipated continuing need for and availability of military installations outside the United States, taking into account current restrictions on the use of military installations outside the United States and the potential for future prohibitions or restrictions on the use of such military installations.

(B) Any efficiencies that may be gained from joint tenancy by more than one branch of the Armed Forces at a military installation.

(4) **REVISION.**—The Secretary may revise the force-structure plan and

infrastructure inventory; If the Secretary makes such a revision, the Secretary shall submit the revised plan or inventory to Congress not later than March 15, 2005. For purposes of selecting military installations for closure or realignment under this part in 2005, no revision of the force-structure plan or infrastructure inventory is authorized after that date.

(b) CERTIFICATION OF NEED FOR FURTHER CLOSURES AND REALIGNMENTS.—

(1) CERTIFICATION REQUIRED.—On the basis of the force-structure plan and infrastructure inventory prepared under subsection (a) and the descriptions and economic analysis prepared under such subsection, the Secretary shall include as part of the submission of the plan and inventory—

(A) a certification regarding whether the need exists for the closure or realignment of additional military installations; and

(B) if such need exists, a certification that the additional round of closures and realignments would result in annual net savings for each of the military departments beginning not later than fiscal year 2011.

(2) EFFECT OF FAILURE TO CERTIFY.—If the Secretary does not include the certifications referred to in paragraph (1), the process by which military installations may be selected for closure or realignment under this part in 2005 shall be terminated.

(c) COMPTROLLER GENERAL EVALUATION.—

(1) EVALUATION REQUIRED.—If the certification is provided under subsection (b), the Comptroller General shall prepare an evaluation of the following:

(A) The force-structure plan and infrastructure inventory prepared under subsection (a) and the final selection criteria specified in section 2913, including an evaluation of the accuracy and analytical sufficiency of such plan, inventory, and criteria.

(B) The need for the closure or realignment of additional military installations.

(2) SUBMISSION.—The Comptroller General shall submit the evaluation to Congress not later than 60 days after the date on which the force-structure plan and infrastructure inventory are submitted to Congress.

(d) AUTHORIZATION OF ADDITIONAL ROUND; COMMISSION.—

(1) APPOINTMENT OF COMMISSION.—Subject to the certifications required under subsection (b), the President may commence an additional round for the selection of military installations for closure and realignment under this part in 2005 by transmitting to the Senate, not later than March 15, 2005, nominations pursuant to section 2902(c) for the appointment of new members to the Defense Base Closure and Realignment Commission.

(2) EFFECT OF FAILURE TO NOMINATE.—If the President does not transmit to the Senate the nominations for the Commission by March 15, 2005, the process by which military installations may be selected for closure or realignment under this part in 2005 shall be terminated.

(3) MEMBERS.—Notwithstanding section 2902(c)(1), the Commission appointed

under the authority of this subsection shall consist of nine members.

(4) TERMS; MEETINGS; TERMINATION.—Notwithstanding subsections (d), (e)(1), and (1) of section 2902, the Commission appointed under the authority of this subsection shall meet during calendar year 2005 and shall terminate on April 15, 2006.

(5) FUNDING.—If no funds are appropriated to the Commission by the end of the second session of the 108th Congress for the activities of the Commission in 2005, the Secretary may transfer to the Commission for purposes of its activities under this part in that year such funds as the Commission may require to carry out such activities. The Secretary may transfer funds under the preceding sentence from any funds available to the Secretary. Funds so transferred shall remain available to the Commission for such purposes until expended.

SEC. 2913. SELECTION CRITERIA FOR 2005 ROUND.

(a) FINAL SELECTION CRITERIA.—The final criteria to be used by the Secretary in making recommendations for the closure or realignment of military installations inside the United States under this part in 2005 shall be the military value and other criteria specified in subsections (b) and (c).

(b) MILITARY VALUE CRITERIA.— The military value criteria are as follows:

(1) The current and future mission capabilities and the impact on operational readiness of the total force of the Department of Defense, including the impact on joint warfighting, training, and readiness.

(2) The availability and condition of land, facilities, and associated airspace (including training areas suitable for maneuver by ground, naval, or air forces throughout a diversity of climate and terrain areas and staging areas for the use of the Armed Forces in homeland defense missions) at both existing and potential receiving locations.

(3) The ability to accommodate contingency, mobilization, surge, and future total force requirements at both existing and potential receiving locations to support operations and training.

(4) The cost of operations and the manpower implications.

(c) OTHER CRITERIA.—The other criteria that the Secretary shall use in making recommendations for the closure or realignment of military installations inside the United States under this part in 2005 are as follows:

(1) The extent and timing of potential costs and savings, including the number of years, beginning with the date of completion of the closure or realignment, for the savings to exceed the costs.

(2) The economic impact on existing communities in the vicinity of military installations.

(3) The ability of the infrastructure of both the existing and potential receiving communities to support forces, missions, and personnel.

(4) The environmental impact, including the impact of costs related to potential environmental restoration, waste management, and environmental compliance activities.

(d) **PRIORITY GIVEN TO MILITARY VALUE.**—The Secretary shall give priority consideration to the military value criteria specified in subsection (b) in the making of recommendations for the closure or realignment of military installations.

(e) **EFFECT ON DEPARTMENT AND OTHER AGENCY COSTS.**—The selection criteria relating to the cost savings or return on investment from the proposed closure or realignment of military installations shall take into account the effect of the proposed closure or realignment on the costs of any other activity of the Department of Defense or any other Federal agency that may be required to assume responsibility for activities at the military installations.

(f) **RELATION TO OTHER MATERIALS.**—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 referred to in section 2912, in making recommendations for the closure or realignment of military installations inside the United States under this part in 2005.

(g) **RELATION TO CRITERIA FOR EARLIER ROUNDS.**—Section 2903(b), and the selection criteria prepared under such section, shall not apply with respect to the process of making recommendations for the closure or realignment of military installations in 2005.

SEC. 2914. SPECIAL PROCEDURES FOR MAKING RECOMMENDATIONS FOR REALIGNMENTS AND CLOSURES FOR 2005 ROUND; COMMISSION CONSIDERATION OF RECOMMENDATIONS.

(a) **RECOMMENDATIONS REGARDING CLOSURE OR REALIGNMENT OF MILITARY INSTALLATIONS.**—If the Secretary makes the certifications required under section 2912(b), the Secretary shall publish in the Federal Register and transmit to the congressional defense committees and the Commission, not later than May 16, 2005, a list of the military installations inside the United States that the Secretary recommends for closure or realignment on the basis of the force-structure plan and infrastructure inventory prepared by the Secretary under section 2912 and the final selection criteria specified in section 2913.

(b) **PREPARATION OF RECOMMENDATIONS.**—

(1) **IN GENERAL.**—The Secretary shall comply with paragraphs (2) through (6) of section 2903(c) in preparing and transmitting the recommendations under this section. However, paragraph (6) of section 2903(e) relating to submission of information to Congress shall be deemed to require such submission within 48 hours.

(2) **CONSIDERATION OF LOCAL GOVERNMENT VIEWS.**—(A) In making recommendations to the Commission in 2005, the Secretary shall consider any notice received from a local government in the vicinity of a military installation that the government would approve of the closure or realignment of the installation,

(B) Notwithstanding the requirement in subparagraph (A), the Secretary shall make the recommendations referred to in that subparagraph based on the force-structure plan, infrastructure inventory, and final selection criteria otherwise applicable to such

recommendations.

(C) The recommendations shall include a statement of the result of the consideration of any notice described in subparagraph (A) that is received with respect to a military installation covered by such recommendations. The statement shall set forth the reasons for the result.

(d) COMMISSION REVIEW AND RECOMMENDATIONS.—

(1) IN GENERAL.—Except as provided in this subsection, section 2903(d) shall apply to the consideration by the Commission of the recommendations transmitted by the Secretary in 2005. The Commission's report containing its findings and conclusions, based on a review and analysis of the Secretary's recommendations, shall be transmitted to the President not later than September 8, 2005.

(2) AVAILABILITY OF RECOMMENDATIONS TO CONGRESS.—After September 8, 2005, the Commission shall promptly provide, upon request, to any Member of Congress information used by the Commission in making its recommendations.

(3) LIMITATIONS ON AUTHORITY TO CONSIDER ADDITIONS TO CLOSURE OR REALIGNMENT LISTS.—The Commission may not consider making a change in the recommendations of the Secretary that would add a military installation to the Secretary's list of installations recommended for closure or realignment unless, in addition to the requirements of section 2903(d)(2)(C)—

(A) the Commission provides the Secretary with at least a 15-day period, before making the change, in which to submit an explanation of the reasons why the installation was not included on the closure or realignment list by the Secretary; and

(B) the decision to add the installation for Commission consideration is supported by at least seven members of the Commission.

(4) TESTIMONY BY SECRETARY.—The Commission shall invite the Secretary to testify at a public hearing, or a closed hearing if classified information is involved, on any proposed change by the Commission to the Secretary's recommendations.

(5) REQUIREMENTS TO EXPAND CLOSURE OR REALIGNMENT RECOMMENDATIONS.—In the report required under section 2903(d)(2)(A) that is to be transmitted under paragraph (1), the Commission may not make a change in the recommendations of the Secretary that would close a military installation not recommended for closure by the Secretary, would realign a military installation not recommended for closure or realignment by the Secretary, or would expand the extent of the realignment of a military installation recommended for realignment by the Secretary unless—

(A) at least two members of the Commission visit the military installation before the date of the transmittal of the report; and

(B) the decision of the Commission to make the change to recommend the closure of the military installation, the realignment of the installation, or the expanded realignment of the installation is supported by at least seven members of the Commission.

(6) **COMPTROLLER GENERAL REPORT.**—The Comptroller General report required by section 2903(d)(5)(B) analyzing the recommendations of the Secretary and the selection process in 2005 shall be transmitted to the congressional defense committees not later than July 1, 2005.

(e) **REVIEW BY THE PRESIDENT.**—

(1) **IN GENERAL.**—Except as provided in this subsection, section 2903(e) shall apply to the review by the President of the recommendations of the Commission under this section, and the actions, if any, of the Commission in response to such review, in 2005. The President shall review the recommendations of the Secretary and the recommendations contained in the report of the Commission under subsection (d) and prepare a report, not later than September '23, 2005, containing the President's approval or disapproval of the Commission's recommendations.

(2) **COMMISSION RECONSIDERATION.**—If the Commission prepares a revised list of recommendations under section 2903(e)(3) in 2005 in response to the review of the President in that year under paragraph (1), the Commission shall transmit the revised list to the President not later than October 20, 2005.

(3) **EFFECT OF FAILURE TO TRANSMIT.**—If the President does not transmit to Congress an approval and certification described in paragraph (2) or (4) of section 2903(e) by November 7, 2005, the process by which military installations may be selected for closure or realignment under this part in 2005 shall be terminated.

(4) **EFFECT OF TRANSMITTAL.**—A report of the President under this subsection containing the President's approval of the Commission's recommendations is deemed to be a report under section 2903(e) for purposes of sections 2904 and 2908.



Defense Base Closure and Realignment Act of 1990. Act Nov. 5, 1990, P.L. 101-510, provides:

"Sec. 2901. Short title and purpose.

"(a) Short title. This part may be cited as the 'Defense Base Closure and Realignment Act of 1990'.

"(b) Purpose. The purpose of this part is to provide a fair process that will result in the timely closure and realignment of military installations inside the United States.

"Sec. 2902. The Commission.

"(a) Establishment. There is established an independent commission to be known as the 'Defense Base Closure and Realignment Commission'.

"(b) Duties. The Commission shall carry out the duties specified for it in this part.

"(c) Appointment.

(1)

(A) The Commission shall be composed of eight members appointed by the President, by and with the advise and consent of the Senate.

"(B) The President shall transmit to the Senate the nominations for appointment to the Commission--

"(i) by no later than January 3, 1991, in the case of members of the Commission whose terms will expire at the end of the first session of the 102nd Congress;

"(ii) by no later than January 25, 1993, in the case of members of the Commission whose terms will expire at the end of the first session of the 103rd Congress; and

"(iii) by no later than January 3, 1995, in the case of members of the Commission whose terms will expire at the end of the first session of the 104th Congress.

"(C) If the President does not transmit to Congress the nominations for appointment to the Commission on or before the date specified for 1993 in clause (ii) of subparagraph (B) or for 1995 in clause (iii) of such subparagraph, the process by which military installations may be selected for closure or realignment under this part with respect to that year shall be terminated.

"(2) In selecting individuals for nominations for appointments to the Commission, the President should consult with--

"(A) the Speaker of the House of Representatives concerning the appointment of two members;

"(B) the majority leader of the Senate concerning the appointment of two members;

"(C) the minority leader of the House of Representatives concerning the appointment of one member; and

"(D) the minority leader of the Senate concerning the appointment of one member.

"(3) At the time the President nominates individuals for appointment to the Commission for each session of Congress referred to in paragraph (1)(B), the President shall designate one such individual who shall serve as Chairman of the Commission.

"(d) Terms.

(1) Except as provided in paragraph (2), each member of the Commission shall serve until the adjournment of Congress sine die for the session during which the member was appointed to the Commission.

"(2) The Chairman of the Commission shall serve until the confirmation of a successor.

"(e) Meetings.

(1) The Commission shall meet only during calendar years 1991, 1993, and 1995.

"(2)

(A) Each meeting of the Commission, other than meetings in which classified information is to be discussed, shall be open to the public.

"(B) All the proceedings, information, and deliberations of the Commission shall be open, upon request, to the following:

"(i) The Chairman and the ranking minority party member of the Subcommittee on Readiness and Management Support of the Committee on Armed Services of the Senate, or such other members of the Subcommittee designated by such Chairman or ranking minority party member.

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Deleted: DRAFT PROPOSED LEGISLATIVE CHANGES TO THE 2005 DEFENSE BASE CLOSURE AND REALIGNMENT ACT OF 1990, (PUBLIC LAW 101-510), AS CODIFIED AT 10 U.S.C. 2687 NOTE, AS AMENDED BY FY 2002 DEPARTMENT OF DEFENSE AUTHORIZATION ACT (PUBLIC LAW 107-107)¶

To amend the Defense Closure and Realignment Act of 1990 to provide for the continuance of the

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

The Defense Base Closure and Realignment Act of 1990 is amended ---¶

¶
SECTION 2901. SHORT TITLE AND PURPOSE.¶

<#>**SHORT TITLE.** By striking 'This part may be cited as the "Defense Base Closure and Realignment Act of 1990" and inserting 'This Act may be cited as the "Defense Base Realignment and Closure Authorization Act of 2006.'¶

SECTION 2902. THE COMMISSION ¶

In section (a) **ESTABLISHMENT.**—By striking "'Defense Base Closure and Realignment Commission'" and inserting "'Defense Base Realignment and Closure Commission.'" ¶

In section (c) **APPOINTMENT.**—(1)(A) By renumbering it as section (1) and striking 'eight members' and inserting 'nine members,' and by deleting section (1)(B) and section (1)(C). In section (c)(3) by striking 'for each session of Congress referred to in paragraph (1)(B).'

In section (c) by inserting a new provision, '(c)(4) The General Counsel of the Commission shall provide exclusive ethics guidance and counseling to the Chairman and the Commissioners before, during and after the nomination process. The General Counsel shall also have all other duties appurtenant to the office.' ¶

In section (d) **TERMS.**—By deleting it and replacing it with 'Each member of the Commission, not including the (... [1]

"(ii) The Chairman and the ranking minority party member of the Subcommittee on Readiness of the Committee on Armed Services of the House of Representatives, or such other members of the Subcommittee designated by such Chairman or ranking minority party member.

"(iii) The Chairmen and ranking minority party members of the Subcommittees on Military Construction of the Committees on Appropriations of the Senate and of the House of Representatives, or such other members of the Subcommittees designated by such Chairmen or ranking minority party members.

"(f) Vacancies. A vacancy in the Commission shall be filled in the same manner as the original appointment, but the individual appointed to fill the vacancy shall serve only for the unexpired portion of the term for which the individual's predecessor was appointed.

"(g) Pay and travel expenses.

(1)

(A) Each member, other than the Chairman, shall be paid at a rate equal to the daily equivalent of the minimum annual rate of basic pay payable for level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day (including travel time) during which the member is engaged in the actual performance of duties vested in the Commission.

"(B) The Chairman shall be paid for each day referred to in subparagraph (A) at a rate equal to the daily equivalent of the minimum annual rate of basic pay payable for level III of the Executive Schedule under section 5314 of title 5, United States Code.

"(2) Members shall receive travel expenses, including per diem in lieu of subsistence, in accordance with sections 5702 and 5703 of title 5, United States Code.

"(h) Director of staff.

(1) The Commission shall, without regard to section 5311(b) of title 5, United States Code, appoint a Director who has not served on active duty in the Armed Forces or as a civilian employee of the Department of Defense during the one-year period preceding the date of such appointment.

"(2) The Director shall be paid at the rate of basic pay payable for level IV of the Executive Schedule under section 5315 of title 5, United States Code.

"(i) Staff.

(1) Subject to paragraphs (2) and (3), the Director, with the approval of the Commission, may appoint and fix the pay of additional personnel.

"(2) The Director may make such appointments without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and any personnel so appointed may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of that title [5 USCS § 5101 et seq. and 5331 et seq.] relating to classification and General Schedule pay rates, except that an individual so appointed may not receive pay in excess of the annual rate of basic pay payable for GS-18 of the General Schedule [5 USCS § 5332].

"(3)

(A) Not more than one-third of the personnel employed by or detailed to the Commission may be on detail from the Department of Defense.

"(B)

(i) Not more than one-fifth of the professional analysts of the Commission staff may be persons detailed from the Department of Defense to the Commission.

"(ii) No person detailed from the Department of Defense to the Commission may be assigned as the lead professional analyst with respect to a military department or defense agency.

"(C) A person may not be detailed from the Department of Defense to the Commission if, within 12 months before the detail is to begin, that person participated personally and substantially in any matter within the Department of Defense concerning the preparation of recommendations for closures or realignments of military installations.

"(D) No member of the Armed Forces, and no officer or employee of the Department of Defense, may-

:

"(i) prepare any report concerning the effectiveness, fitness, or efficiency of the performance on the staff of the Commission of any person detailed from the Department of Defense to that staff;

"(ii) review the preparation of such a report; or

"(iii) approve or disapprove such a report.

"(4) Upon request of the Director, the head of any Federal department or agency may detail any of the personnel of that department or agency to the Commission to assist the Commission in carrying out its duties under this part.

"(5) The Comptroller General of the United States shall provide assistance, including the detailing of employees, to the Commission in accordance with an agreement entered into with the Commission.

"(6) The following restrictions relating to the personnel of the Commission shall apply during 1992 and 1994:

"(A) There may not be more than 15 persons on the staff at any one time.

"(B) The staff may perform only such functions as are necessary to prepare for the transition to new membership on the Commission in the following year.

"(C) No member of the Armed Forces and no employee of the Department of Defense may serve on the staff.

"(j) Other authority.

(1) The Commission may procure by contract, to the extent funds are available, the temporary or intermittent services of experts or consultants pursuant to section 3109 of title 5, United States Code.

"(2) The Commission may lease space and acquire personal property to the extent funds are available.

"(k) Funding.

(1) There are authorized to be appropriated to the Commission such funds as are necessary to carry out its duties under this part. Such funds shall remain available until expended.

"(2) If no funds are appropriated to the Commission by the end of the second session of the 101st Congress, the Secretary of Defense may transfer, for fiscal year 1991, to the Commission funds from the Department of Defense Base Closure Account established by section 207 of Public Law 100-526 [note to this section]. Such funds shall remain available until expended.

"(3)

(A) The Secretary may transfer not more than \$ 300,000 from unobligated funds in the account referred to in subparagraph (B) for the purpose of assisting the Commission in carrying out its duties under this part during October, November, and December 1995. Funds transferred under the preceding sentence shall remain available until December 31, 1995.

"(B) The account referred to in subparagraph (A) is the Department of Defense Base Closure Account established under section 207(a) of the Defense Authorization Amendments and Base Closure and Realignment Act (Public Law 100-526; 10 U.S.C. 2687 note).

"(l) Termination. The Commission shall terminate on December 31, 1995.

"(m) Prohibition against restricting communications. Section 1034 of title 10, United States Code, shall apply with respect to communications with the Commission.

"Sec. 2903. Procedure for making recommendations for base closures and realignments.

"(a) Force-structure plan.

(1) As part of the budget justification documents submitted to Congress in support of the budget for the Department of Defense for each of the fiscal years 1992, 1994, and 1996, the Secretary shall include a force-structure plan for the Armed Forces based on an assessment by the Secretary of the probable threats to the national security during the six-year period beginning with the fiscal year for which the budget request is made and of the anticipated levels of funding that will be available for national defense purposes during such period.

"(2) Such plan shall include, without any reference (directly or indirectly) to military installations inside the United States that may be closed or realigned under such plan--

"(A) a description of the assessment referred to in paragraph (1);

Deleted: be authorized to conduct a thorough study and detailed analysis of the implementation of the 2005 Defense Closure and Realignment Commission's recommendations as long as Congress fails to enact a joint resolution of disapproval as provided in Section 2904(b). The study, to be issued at the discretion of the Commission but, in any case no later than June 30, 2007, to Congress and the President shall identify and discuss the feasibility of categorizing military installations scheduled for closure and realignment, where appropriate, into properties: (a) that are the subject of negotiations with local redevelopment authorities or other parties for re-use or rezoning and may require special finance vehicles such as loans, loan guarantees, investments, environmental bonds and insurance, or other options to successfully transfer title and use to municipal, State or private sector entities; and (b) that are National Priorities List (NPL) sites or that have significant environmental remediation problems requiring long-term management and oversight. The Commission shall consult with the Department of Defense and its military service branches, the Comptroller General of the United States and the Environmental Protection Agency, and the Bureau of Land Management, Department of the Interior, in making its study

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 "(3) **FINAL REPORT.** The Commission shall furnish a final report to Congress and the President no later than October 31, 2011, concerning the implementation of the Commission's final recommendations made to Congress on September 8, 2005, [insert date of final recommendations if revisions were provided to the President] as long as Congress has not enacted a joint resolution of disapproval pursuant to section 2904(b). ¶

¶
 In Section 2902, by inserting "SECTION 2902(q). **SUBPOENA POWER.** The Commission shall have the power to issue subpoenas to compel the disclosure of testimony, documentary, electronic or other types of evidence and the testimony of the custodians thereof. Such subpoenas shall be enforceable by a federal district court with jurisdiction over the matter. ¶

¶
 In Section 2903 by striking

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"(B) a description (i) of the anticipated force structure during and at the end of each such period for each military department (with specifications of the number and type of units in the active and reserve forces of each such department), and (ii) of the units that will need to be forward based (with a justification thereof) during and at the end of each such period; and

"(C) a description of the anticipated implementation of such force-structure plan.

"(3) The Secretary shall also transmit a copy of each such force-structure plan to the Commission.

"(b) Selection criteria.

(1) The Secretary shall, by no later than December 31, 1990, publish in the Federal Register and transmit to the congressional defense committees the criteria proposed to be used by the Department of Defense in making recommendations for the closure or realignment of military installations inside the United States under this part. The Secretary shall provide an opportunity for public comment on the proposed criteria for a period of at least 30 days and shall include notice of that opportunity in the publication required under the preceding sentence.

"(2)

(A) The Secretary shall, by no later than February 15, 1991, publish in the Federal Register and transmit to the congressional defense committees the final criteria to be used in making recommendations for the closure or realignment of military installations inside the United States under this part. Except as provided in subparagraph (B), such criteria shall be the final criteria to be used, along with the force-structure plan referred to in subsection (a), in making such recommendations unless disapproved by a joint resolution of Congress enacted on or before March 15, 1991.

"(B) The Secretary may amend such criteria, but such amendments may not become effective until they have been published in the Federal Register, opened to public comment for at least 30 days, and then transmitted to the congressional defense committees in final form by no later than January 15 of the year concerned. Such amended criteria shall be the final criteria to be used, along with the force-structure plan referred to in subsection (a), in making such recommendations unless disapproved by a joint resolution of Congress enacted on or before February 15 of the year concerned.

"(c) DOD recommendations.

(1) The Secretary may, by no later than April 15, 1991, March 15, 1993, and March 1, 1995, publish in the Federal Register and transmit to the congressional defense committees and to the Commission a list of the military installations inside the United States that the Secretary recommends for closure or realignment on the basis of the force-structure plan and the final criteria referred to in subsection (b)(2) that are applicable to the year concerned.

"(2) The Secretary shall include, with the list of recommendations published and transmitted pursuant to paragraph (1), a summary of the selection process that resulted in the recommendation for each installation, including a justification for each recommendation. The Secretary shall transmit the matters referred to in the preceding sentence not later than 7 days after the date of the transmittal to the congressional defense committees and the Commission of the list referred to in paragraph (1).

"(3)

(A) In considering military installations for closure or realignment, the Secretary shall consider all military installations inside the United States equally without regard to whether the installation has been previously considered or proposed for closure or realignment by the Department.

"(B) In considering military installations for closure or realignment, the Secretary may not take into account for any purpose any advance conversion planning undertaken by an affected community with respect to the anticipated closure or realignment of an installation.

"(C) For purposes of subparagraph (B), in the case of a community anticipating the economic effects of a closure or realignment of a military installation, advance conversion planning—

"(i) shall include community adjustment and economic diversification planning undertaken by the community before an anticipated selection of a military installation in or near the community for closure or realignment; and

Deleted:)(B) by striking 'January 15 of the year concerned' and inserting 'August 15, 2010' and by striking 'enacted on or before February 15 of the year concerned' and inserting 'as long as Congress fails to enact a joint resolution of disapproval as provided in Section 2904(b) herein.' And by inserting as a new sentence at the end of section 2903(2)(B) 'This Act shall be further amended to add the final selection criteria, as published in the Federal Register, within 120 days of such publication.' ¶ In section 2903, by inserting section '(e) COMPTROLLER GENERAL EVALUATION.—¶

¶ '(1) EVALUATION REQUIRE[... [3]

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"(ii) may include the development of contingency redevelopment plans, plans for economic development and diversification, and plans for the joint use (including civilian and military use, public and private use, civilian dual use, and civilian shared use) of the property or facilities of the installation after the anticipated closure or realignment.

"(4) In addition to making all information used by the Secretary to prepare the recommendations under this subsection available to Congress (including any committee or member of Congress), the Secretary shall also make such information available to the Commission and the Comptroller General of the United States.

"(5)

"(A) Each person referred to in subparagraph (B), when submitting information to the Secretary of Defense or the Commission concerning the closure or realignment of a military installation, shall certify that such information is accurate and complete to the best of that person's knowledge and belief.

"(B) Subparagraph (A) applies to the following persons:

"(i) The Secretaries of the military departments.

"(ii) The heads of the Defense Agencies.

"(iii) Each person who is in a position the duties of which include personal and substantial involvement in the preparation and submission of information and recommendations concerning the closure or realignment of military installations, as designated in regulations which the Secretary of Defense shall prescribe, regulations which the Secretary of each military department shall prescribe for personnel within that military department, or regulations which the head of each Defense Agency shall prescribe for personnel within that Defense Agency.

"(6) Any information provided to the Commission by a person described in paragraph (5)(B) shall also be submitted to the Senate and the House of Representatives to be made available to the Members of the House concerned in accordance with the rules of that House. The information shall be submitted to the Senate and House of Representatives within 24 hours after the submission of the information to the Commission.

"(d) Review and recommendations by the Commission.

"(1) After receiving the recommendations from the Secretary pursuant to subsection (c) for any year, the Commission shall conduct public hearings on the recommendations. All testimony before the Commission at a public hearing conducted under this paragraph shall be presented under oath.

"(2)

"(A) The Commission shall, by no later than July 1 of each year in which the Secretary transmits recommendations to it pursuant to subsection (c), transmit to the President a report containing the Commission's findings and conclusions based on a review and analysis of the recommendations made by the Secretary, together with the Commission's recommendations for closures and realignments of military installations inside the United States.

"(B) Subject to subparagraph (C), in making its recommendations, the Commission may make changes in any of the recommendations made by the Secretary if the Commission determines that the Secretary deviated substantially from the force-structure plan and final criteria referred to in subsection (c)(1) in making recommendations.

"(C) In the case of a change described in subparagraph (D) in the recommendations made by the Secretary, the Commission may make the change only if the Commission:

"(i) makes the determination required by subparagraph (B);

"(ii) determines that the change is consistent with the force-structure plan and final criteria referred to in subsection (c)(1);

"(iii) publishes a notice of the proposed change in the Federal Register, not less than 45 days before transmitting its recommendations to the President pursuant to paragraph (2); and (iv) conducts public hearings on the proposed change.

"(D) Subparagraph (C) shall apply to a change by the Commission in the Secretary's recommendations that would:

"(i) add a military installation to the list of military installations recommended by the Secretary for closure;

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

The Defense Base Closure and Realignment Act of 1990 is amended ---

‘SECTION 2901. SHORT TITLE AND PURPOSE.

SHORT TITLE. By striking ‘This part may be cited as the "Defense Base Closure and Realignment Act of 1990’ and inserting ‘This Act may be cited as the “Defense Base Realignment and Closure Authorization Act of 2006.”

‘SECTION 2902. THE COMMISSION

In section (a) **ESTABLISHMENT.**—By striking “Defense Base Closure and Realignment Commission” and inserting “Defense Base Realignment and Closure Commission.”

In section (c) **APPOINTMENT.**—(1)(A) By renumbering it as section (1) and striking ‘eight members’ and inserting ‘nine members,’ and by deleting section (1)(B) and section (1)(C). In section (c)(3) by striking ‘for each session of Congress referred to in paragraph (1)(B).’ In section (c) by inserting a new provision, ‘(c)(4) The General Counsel of the Commission shall provide exclusive ethics guidance and counseling to the Chairman and the Commissioners before, during and after the nomination process. The General Counsel shall also have all other duties appurtenant to the office.’

In section (d) **TERMS.**—By deleting it and replacing it with ‘Each member of the Commission, not including the Chairman, shall serve up to 90 days from the date of submitting the Commission’s report to the President, unless reappointed.’

(e) **MEETINGS.**—(1) By deleting this subsection, and renumbering the following section as ‘(1)(A)’ and inserting ‘If another round is authorized pursuant to section 2903, the Commission shall conduct meetings and hearings open to the public, unless the Chairman determines that such hearings should be closed to the public for reasons of national security. The Commission shall issue public notices of its meetings and hearings by publication in the *Federal Register* not less than ten days before the dates or such meetings and hearings, except for emergency meetings in which case notice may be issued not less than three days before the date of such a meeting with an explanation on why an emergency meeting is necessary under the circumstances. Where such meetings or hearings are closed to the public, the public notice shall specify the reasons therefor. All testimony presented at open public hearings before the Commission shall be made under oath. Official transcripts, certified by the Chairman, of such public meetings and hearings shall be made available to the public within 90 days of the meeting or hearing taking place.’

(h) **DIRECTOR OF STAFF.**—By inserting ‘(h)(3) The Director shall be authorized to continue performing the duties of the office until the termination of the Commission, and may designate the necessary staff of not more than 50 persons, to conduct the affairs of the Commission as long as Congress fails to enact a joint resolution of disapproval as provided in Section 2904(b).’

'(h)(4) The Director may request the head of any Federal department or agency to detail any of the personnel of that department or agency to the Commission to assist the Commission in carrying out its duties under this Act, and shall request the Comptroller General of the United States, the head of the Environmental Protection Agency (EPA) and the head of the Arms Control and Disarmament Agency (ACDA) to detail one or more employees, at the Director's discretion, to assist the Commission in discharging its duties, pursuant to an agreement entered into by the Comptroller General of the United States, EPA and ACDA, respectively, with the Commission. The detailee(s) assigned by the Comptroller General of the United States shall be responsible for tracking and monitoring, as appropriate, uses of the Department of Defense Base Closure Account 2005, as set forth in section 2906A; the EPA detailee(s) shall be responsible for tracking and monitoring, as appropriate, environmental restoration, remediation and compliance, as set forth in section 2905; and the ACDA detailee(s) shall monitor compliance of international treaty obligations of the United States as may be affected by realignments and closures recommended by the Commission.'

(i) **STAFF.**—by deleting (i)(5) and (i)(6).

(k) **FUNDING.**—(1) By striking 'part' and inserting 'Act.'

By deleting (k)(2) and inserting 'If no funds are appropriated to the Commission by the end of the second session of the 112th Congress for the activities of the Commission in 2011, the Secretary may transfer to the Commission for purposes of its activities until its termination, as specified in this part, such funds as the Commission may require to carry out such activities. The Secretary may transfer these funds from any funds that may be available to the Secretary. Funds so transferred shall remain available until expended.'

By deleting (k)(3) and inserting 'If another round is authorized, there are authorized to be appropriated to the Commission such funds as are necessary to carry out its duties. Such funds shall remain available until expended.'

(l) **TERMINATION.**— by striking 'shall terminate on December 31, 1995' and inserting 'shall terminate on December 31, 2011, or six years from the expiration of time in which Congress may enact a joint resolution of disapproval as provided in section 2904(b), whichever is later, unless an additional round is authorized by Congress under section 2903.'

In Section 2902, by inserting 'SECTION 2902(n). **EXEMPTION FROM FACA.** The Commission shall be exempt from the Federal Advisory Committee Act, 5 U.S.C. app. (2005).'

In Section 2902, by inserting 'SECTION 2902(o). **RECORDS AND RECORDKEEPING.** (1) The records, reports, transcripts, minutes, correspondence, working papers, drafts, studies or other documents that were furnished to or made available to the Commission shall be available for public inspection and copying at one or more locations to be designated by the Commission. Copies may be furnished to members of the public at cost upon request, may also be provided via electronic media in a form that may be designated by the Commission.

The Commission shall keep records and fully disclose the disposition of any funds, including travel funds, which are made available to the Commission in discharging its duties. The disposition, retention and destruction of all official records of the Commission, electronic and otherwise, shall be made pursuant to the Federal Records Act, 44 U.S. Code, Chapter 33.'

In Section 2902, by inserting 'SECTION 2902(p). **REPORTING REQUIREMENTS.** (1) **ANNUAL REPORTS.** The Commission shall furnish annual reports to Congress and the President no later than October 31 of each calendar year concerning the implementation of the Commission's final recommendations made to Congress on September 8, 2005, [insert date of final recommendations if revisions were provided to the President] providing that Congress has not enacted a joint resolution of disapproval pursuant to section 2904(b). Such report shall track and monitor the uses of the Department of Defense Base Closure Account 2005 as described in section 2906A; the implementation by each branch of the armed services of the recommendations made by the 2005 Defense Base Closure and Realignment Commission, including any annual net savings thereof; the implementation of privatizations-in-place by

local redevelopment authorities; environmental remediation under taken by the Department of Defense, and the costs thereof, and the impact of closures or realignments on international treaty obligations of the United States.'

'(2) SPECIAL REPORT OF THE COMMISSION.--

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'(3) FINAL REPORT. The Commission shall furnish a final report to Congress and the President no later than October 31, 2011, concerning the implementation of the Commission's final recommendations made to Congress on September 8, 2005, [insert date of final recommendations if revisions were provided to the President] as long as Congress has not enacted a joint resolution of disapproval pursuant to section 2904(b).'

In Section 2902, by inserting **'SECTION 2902(q). SUBPOENA POWER.** The Commission shall have the power to issue subpoenas to compel the disclosure of testimony, documentary, electronic or other types of evidence and the testimony of the custodians thereof. Such subpoenas shall be enforceable by a federal district court with jurisdiction over the matter.

In Section 2903 by striking **'PROCEDURE FOR MAKING RECOMMENDATIONS FOR BASE CLOSURES AND REALIGNMENTS'** and inserting **'PROCEDURE FOR INITIATING AN ADDITIONAL ROUND OF BASE CLOSURES AND REALIGNMENTS.'**

By deleting section 2903(a) and inserting **'SECTION 2903(a) FORCE-STRUCTURE PLAN AND INFRASTRUCTURE INVENTORY.—**

'(1) PREPARATION AND SUBMISSION.— As part of the budget justification documents submitted to Congress in support of the budget for the Department of Defense for fiscal year 2011, the Secretary shall include the following:

'(A) A force-structure plan for the Armed Forces based on (i) an assessment provided to the Secretary by the Director of National Intelligence, in consultation with the Secretary and other national intelligence agencies, no later than January 31, 2010, of the probable threats to the national security during the 20-year period beginning with fiscal year 2010, taking into account military, economic and diplomatic factors; (ii) the probable end-strength levels and major military force units (including land force divisions, carrier and other major combatant vessels, air wings, and other comparable units) needed to meet these threats; (iii) mobility capabilities and (iv) the anticipated levels of funding that will be available for national defense purposes during such period.

'(B) A comprehensive inventory of military installations world-wide for each military department, with specifications of the number and type of facilities in the active and reserve forces of each military department.

'(2) RELATIONSHIP OF PLAN AND INVENTORY.— Using the force-structure plan and infrastructure inventory prepared under paragraph (1), the Secretary shall prepare (and include as part of the submission of such plan and inventory) the following:

'(A) A description of the infrastructure necessary to support the force structure described in the force-structure plan.

'(B) A discussion of categories of excess infrastructure and infrastructure capacity.

'(C) An economic analysis of the effect of the closure or realignment of military installations to reduce excess infrastructure.

'(3) SPECIAL CONSIDERATIONS.—In determining the level of necessary versus

excess infrastructure under paragraph (2), the Secretary shall consider the following:

‘(A) The anticipated continuing need for and availability of military installations outside the United States, taking into account current restrictions on the use of military installations outside the United States and the potential for future prohibitions or restrictions on the use of such military installations.

‘(B) Any efficiencies that may be gained from joint tenancy by more than one branch of the Armed Forces at a military installation.

‘(4) **REVISION.**—The Secretary may revise the force-structure plan and infrastructure inventory; If the Secretary makes such a revision, the Secretary shall submit the revised plan or inventory to Congress not later than October 1, 2010. For purposes of selecting military installations for closure or realignment under this Act in 2010, no revision of the force-structure plan or infrastructure inventory is authorized after that date.

‘(b) **CERTIFICATION OF NEED FOR FURTHER CLOSURES AND REALIGNMENTS.** -- In order to initiate an additional round of base closures and realignments on the basis of the force-structure plan and infrastructure inventory and the economic analysis of the effect of the closure or realignment of military installations to reduce excess infrastructure prepared under subsection (a), and as part of the submission of the plan and inventory, the Secretary of the Department of Defense shall certify no later than March 15, 2010 –

That a need exists for the closure or realignment of additional military installations;

That an additional round of closures and realignments would result in annual net savings for each military department beginning not later than fiscal year 2017; and,

That the certification is based on the force-structure plan and infrastructure inventory, including a 20-year projected threat assessment, and consideration of the Quadrennial Defense Review for 2009, issued by the Secretary pursuant to 10 U.S.C. Section 118(a), and the overseas global basing posture.

‘(c) **EFFECT OF FAILURE TO CERTIFY.**—If the Secretary does not certify the need for closures or realignments of military installations as referred to in paragraph (b), the process by which military installations may be selected for closure or realignment under this Act shall be terminated.’

In Section 2903 by renumbering section (b) as ‘(d) **SELECTION CRITERIA.**—(1) and striking ‘December 31, 1990,’ and inserting ‘April 15, 2010.’ In section 2903(2)(A) by striking ‘February 15, 1991’ and inserting ‘June 30, 2010’, and by striking ‘March 1991’ and inserting ‘as long as Congress fails to enact a joint resolution of disapproval as provided in Section 2904(b) herein.’ And, in section 2903

)(B) by striking ‘January 15 of the year concerned’ and inserting ‘August 15, 2010’ and by striking ‘enacted on or before February 15 of the year concerned’ and inserting ‘as long as Congress fails to enact a joint resolution of disapproval as provided in Section 2904(b) herein.’ And by inserting as a new sentence at the end of section 2903(2)(B) ‘This Act shall be further amended to add the final selection criteria, as published in the *Federal Register*, within 120 days of such publication.’

In section 2903, by inserting section ‘(e) **COMPTROLLER GENERAL EVALUATION.**—

‘(1) **EVALUATION REQUIRED.**—If the certification is provided under subsection (b), the Comptroller General shall prepare an evaluation of the following:

'(A) The force-structure plan and infrastructure inventory prepared under subsection (a) and the final selection criteria referenced in subsection (d), including an evaluation of the accuracy and analytical sufficiency of such plan, inventory, and criteria.

'(B) The need for the closure or realignment of additional military installations.

'(2) **SUBMISSION.**—The Comptroller General shall submit the evaluation to Congress not later than 60 days after the date on which the force-structure plan and infrastructure inventory are submitted to Congress.'

In section 2903, by inserting section '(f)(1) **APPOINTMENT OF COMMISSIONERS FOR AN ADDITIONAL ROUND.**— Subject to the issuance of certifications by the Secretary as required under subsection (b), the President may commence an additional round for the selection of military installations for closure and realignment under this Act by transmitting to the Senate, not later than September 30, 2010, nominations pursuant to section 2902(c) for the appointment of new members to the Defense Base Realignment and Closure Commission.

'(2) **EFFECT OF FAILURE TO NOMINATE.**—If the President does not transmit to the Senate the nominations for the Commission by September 30, 2010, the process by which military installations may be selected for closure or realignment under this Act in 2010 shall be terminated.'

In section 2903 by striking '(c)' and inserting '(g) **DOD RECOMMENDATIONS.**—(1) If the Secretary makes the certifications required under subsection (b), the Secretary shall publish in the *Federal Register* and transmit to the congressional defense committees and the Commission, not later than November 30, 2010, a list of the military installations inside the United States that the Secretary recommends for closure or realignment on the basis of the force-structure plan and infrastructure inventory prepared by the Secretary under subsection (a)(1), and the final selection criteria specified in subsection (d).

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This justification shall include sufficient detail, including minutes of meetings for Department of Defense executive group sessions, including presentations made to the Department of Defense Infrastructure Executive Council and the Infrastructure Steering Group, along with complete cost data in order to enable the Commission to consider and propose alternatives to the recommendations proposed by the Secretary.

(B) The Secretary shall certify and transmit to the congressional defense committees and the Commission the summary and detailed justification

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paragraph (A) in full, complete and accurate form, fully disaggregated, as necessary, into unclassified and classified databases,

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Additionally, the Secretary shall make available to the public a copy of the unclassified portions of the summary and detailed justification within 7 days after the Secretary transmits the list referred to paragraph (1). If the Secretary does not certify and transmit the summary and justification for the list of recommendations as described in this section, the process by which military installations may be selected for closure or realignment under this Act shall be terminated.

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CONSIDERATION OF U.S. MILITARY INSTALLATIONS.---

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'(4) CONSIDERATION OF LOCAL GOVERNMENT VIEWS.—

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In making recommendations to the Commission in 2010, the Secretary shall consider any notice received from a local government in the vicinity of a military installation that the government would approve of the closure or realignment of the installation.
'(B) Notwithstanding the requirement in subparagraph (A), the Secretary shall make the recommendations referred to in that subparagraph based on the force-structure plan, infrastructure inventory, and final selection criteria otherwise applicable to such recommendations.

'(C) The recommendations shall include a statement of the result of the consideration of any notice described in subparagraph (A) that is received with respect to a military installation covered by such recommendations. The statement shall set forth the reasons for the result.'

'(5) **SECRETARY'S USE OF INFORMATION.**-- In addition to making all information used by the Secretary to prepare the recommendations under this subsection available to Congress (including any committee or member of Congress), the Secretary shall also make such information available to the Commission and the Comptroller General of the United States.

'(6)(A) **CERTIFICATION OF INFORMATION.**--

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