

Q. How will commissioners and staff be reimbursed for expenses? Will there be a supporting office to provide forms and process reimbursements?

A. The Washington Headquarters Services Travel Division will provide forms and process reimbursements for the Commission. Funds must be transferred from the Commission to the Washington Headquarters Services for this purpose.

In addition to your questions, issues regarding the filing of financial interest statements with the Office of Government Ethics, EEO complaint procedures, and compliance with other statutory requirements will need to be addressed.

Document Separator

Matt

Here is a copy of the Rules, as amended 4/26/91, for your information.

Bob Moore

PROCEDURAL RULES OF THE DEFENSE BASE CLOSURE AND REALIGNMENT COMMISSION

Rule 1. The Defense Base Closure and Realignment Commission ("Commission") was established in Title XXIX of the National Defense Authorization Act for Fiscal Year 1991, Pub. L. No. 101-510. The Commission's operations shall comply with that Act and with these Procedural Rules.

Rule 2. The Commission's meetings, other than meetings in which classified information is to be discussed, shall be open to the public. In other respects, the Commission shall comply with the Federal Advisory Committee Act, as amended, 5 U.S.C. app2.

Rule 3. The Commission shall meet only during calendar years 1991, 1993, and 1995.

Rule 4. The Commission shall meet at the call of the Chairman or at the request of a majority of members of the Commission serving at that time.

Rule 5. When the Commission meets to consider (a) the recommendations of the Secretary of Defense ("Secretary") submitted under section 2903 (c) of Pub. L. No. 101-510, (b) the Commission's report to the President under section 2903 (d) including the Commission's recommendations for closures and realignments of military installations, or (c) a revised list of recommendations for the closure or realignment of military installations under section 2903 (e), a quorum shall consist of a majority of the Commission members serving at that time. When the Commission conducts public hearings on the Secretary's recommendations under section 2903 (d) (1), a quorum shall consist of one or more members designated by the Chairman.

Rule 6. When the Commission meets to consider (a) the recommendations of the Secretary of Defense (Secretary) submitted under section 2903 (c) of Public Law No. 101-510, (b) the Commission's report to the President under section 2903(d), or (c) a revised list of recommendations for the closure or realignment of military

installations under Section 2903 (e) and a QUORUM has been established, a vote shall be required of the Commission to dispense with any of the above responsibilities or to ratify any actions of the Commission. The adoption of any action taken by the Commission with regard to responsibilities (a,) (b) or (c) stated above will be by a majority vote of the Commission Members serving at that time. Commissioners may vote in person . The resolution of all other issues arising in the normal course of Commission meetings or hearings, etc. will be by a simple majority of Commissioners present.

Rule 7. The Chairman shall preside at meetings and public hearings of the Commission when he or she is present. In the Chairman's absence, he or she shall designate another member of the Commission to preside.

Rule 8. The Chairman (or another member of the Commission presiding in the Chairman's absence) shall have the authority to ensure the orderly conduct of the Commission's business. This power includes, without limitation, recognizing members of the Commission and members of the public to speak, imposing reasonable limitations on the length of time a speaker may hold the floor, determining the order in which members of the Commission may question witnesses, conducting votes of members of the Commission, and designating Commission members for the conduct of public hearings under section 2903 (d) (1).

Rule 9. A member of the Commission may designate another member to vote and otherwise act for the first member when he or she will be absent. The first member shall issue a written proxy stating the specific or limited purpose for which the proxy can be exercised.

Rule 10. These Rules may be amended by the majority vote of the members of the Commission serving at that time.



GENERAL COUNSEL OF THE DEPARTMENT OF DEFENSE

WASHINGTON, D.C. 20301-1600

14 JAN 1991

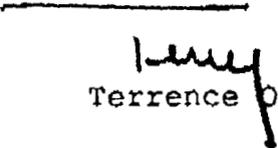
The Honorable Jim Courter
Courter, Robert
Attorneys at Law
1001 Route 517
Hacketstown, NJ 07840

Dear Mr. Courter:

At your request, we have prepared the enclosed draft procedural rules of the Defense Base Closure and Realignment Commission for your consideration. In preparing these rules, we have tried to include basic guidance that will speed the Commission's work, while avoiding cumbersome technical procedural requirements.

My staff and I, as well as Doc Cooke and his organization, remain available to continue to assist you and your associates in the important work of the Commission. Please let Paul Koffsky, of my staff, know if you desire further refinements in the draft rules or if my office can be of other help. Paul can be reached on 703-695-3657.

Sincerely,


Terrence P. O'Donnell

Enclosure

cc (with enclosure): Mr. D.O. Cooke
Director, Administration & Management, OSD

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Procedural Rules of the Defense Base Closure
and Realignment Commission

Rule 1. The Defense Base Closure and Realignment Commission ("Commission") was established in Title XXIX of the National Defense Authorization Act for Fiscal Year 1991, Pub. L. No. 101-510. The Commission's operations shall comply with that Act and with these Procedural Rules.

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Rule 3. The Commission shall meet only during calendar years 1991, 1993, and 1995.

Rule 4. The Commission shall meet at the call of the Chairman or at the request of a majority of members of the Commission serving at that time.

Rule 5. When the Commission meets to consider (a) the recommendations of the Secretary of Defense ("Secretary") submitted under section 2903(c) of Pub. L. No. 101-510, (b) the Commission's report to the President under section 2903(d) including the Commission's recommendations for closures and realignments of military installations), or (c) a revised list of recommendations for the closure or realignment of military installations under section 2903(e), a quorum shall consist of a majority of the commission members serving at that time. ^{and a quorum shall be} When ^{by a majority of} the Commission conducts public hearings on the Secretary's ^{Commission Members serving} recommendations under section 2903(d) (1), ^{and for all other purposes} a quorum shall consist of one or more members designated by the Chairman.

Rule on Vote:

Rule 6. The Chairman shall preside at meetings and public hearings of the Commission when he or she is present. In the Chairman's absence, he or she shall designate another member of the Commission to preside.

Rule 7. The Chairman (or another member of the Commission presiding in the Chairman's absence) shall have the authority to ensure the orderly conduct of the Commission's business. This power includes without limitation recognizing members of the Commission and members of the public to speak, imposing reasonable limitations on the length of time a speaker may hold

the floor, determining the order in which members of the Commission may question witnesses, conducting votes of members of the Commission, and designating commission members for the conduct of public hearings under section 2903(d) (1).

Rule 8. A member of the Commission may designate, by written proxy, another member to vote and otherwise act for the first member when he or she will be absent.

Rule 9. These Rules may be amended by the majority vote of the members of the Commission serving at that time.

Document Separator



U.S. Department of Justice

Washington, D.C. 20530

August 11, 1992

Ms. Mary Hook
Advisory Commission on
Assignment of Women
In the Military
1001 Pennsylvania Ave., N.W.
Suite 2751
Washington, D.C. 20004

Dear Ms. Hook:

Enclosed please find a rough memorandum prepared approximately two years ago on the issue of immunity of advisory commission members. I hope this is helpful to you. If you have questions after reading the memorandum, please give me a call.

Sincerely,

A handwritten signature in cursive script that reads "Helene M. Goldberg".

HELENE M. GOLDBERG
Director
Torts Branch

SUBJECT: Potential Liability of Federal Advisory Commissioners

This memorandum addresses the potential liability of members of advisory commissions established pursuant to the Federal Advisory Committee Act (FACA), 5 U.S.C. App. 2, as well as a brief history of the Division's experience with asserting immunity for private actors.

1. The person who accepts appointment to a federal advisory commission engages in duties that potentially expose him to liability. The extent to which a federal advisory commissioner is protected against personal liability for carrying out his advisory duties, in large measure, turns on whether they are deemed private or governmental actors.

a. Federal advisory commissioners, first, must be concerned with *Bivens* liability for constitutional deprivations. The fact that an advisory committee member is a private citizen (*i.e.*, he is not a full time federal employee) does not mean that he cannot be sued on a *Bivens*, or constitutional tort, theory.¹ The *Bivens* remedy will apply as long as there is state action.¹ An argument that state action is missing in the work of a federal advisory commission faces substantial obstacles, considering the fact that an advisory commission such as the Pornography Commission is:

- 1) established pursuant to federal statute;
- 2) reports to a federal official;
- 3) must announce its meetings in the Federal Register and, with exceptions established by federal statute, must meet in public;
- 4) can only be convened and adjourned by a federal employee;
- 5) cannot meet or take action until a formal charter is filed with appropriate executive and legislative officials and bodies; and
- 6) has members whose pay is limited by federal

¹ "State action" is used here in a generic sense to reflect governmental action -- in the *Bivens* context, federal action.

- 4) can only be convened and adjourned by a federal employee;
- 5) cannot meet or take action until a formal charter is filed with appropriate executive and legislative officials and bodies; and
- 6) has members whose pay is limited by federal statute and who receive per diem under the statute for intermittent federal employees.

In FACA, then, a court could easily find sufficient indicia of government involvement in the work of a federal advisory committee to establish the state action requisite for *Bivens* liability.

A conclusion that persons serving on federal advisory committees act in a purely private capacity, moreover, would not alter the conclusion that such persons are exposed to *Bivens* liability. Even if advisory commissioners act in their private capacities, a plaintiff could meet the state action requisite of *Bivens* simply by alleging that the commissioners "conspired" with a federal employee -- for example, the federal employee who, under FACA, sets the agenda and convenes meetings. Courts have long recognized that private persons who conspire with state actors can be sued under the civil rights statutes. *Dennis v. Sparks*, 449 U.S. 24 (1980) (conspiracy with state judge). Courts similarly have recognized that private persons who conspire with federal actors may be sued on a *Bivens* theory. *F.E. Trotter, Inc. v. Watkins*, 869 F.2d 1312 (9th Cir. 1989); *Reuber v. United States*, 750 F.2d 1039 (D.C.Cir. 1987).

Thus, a private person's appointment to a federal advisory commission member exposes the member to *Bivens* liability. The key question is what protection can he receive. A federal employee sued on a *Bivens* theory, of course, is protected by absolute and qualified immunity doctrines. *Harlow v. Fitzgerald*, 457 U.S. 800 (1982).

The private person's protection is more problematic, however. The Ninth Circuit in *Trotter* squarely held that private persons who conspire with federal actors may be sued in *Bivens* but do not receive the protection of immunity. A contrary conclusion was reached in the D.C. Circuit's decision in *Reuber*, but the absence of a single opinion for the Court in that case leaves the issue open in that circuit.² See *Wyatt v. Cole*, 112 S.Ct. 1827 (1992).

² In *Reuber*, the two judges forming the majority on the issue disagreed on the approach that should be taken when private parties are sued on a state action theory.

b. The federal advisory commissioner also is exposed to liability under state law. As a purely private person, the commissioner is no different than any other person sued for defamation, interference with contractual rights or other tort theory.

As a federal actor, however, the advisory commissioner who is sued for tortious conduct in the course of his duties is protected by the Reform Act, the 1988 amendments to the Federal Tort Claims Act (FTCA). If applicable, any traditional tort suit against a federal advisory commissioner for acts that fall within the scope of his duties would fail, because the exclusive remedy would be against the United States.

c. Whether the suit sounds in *Bivens* or tort, the member of a federal advisory commission is best served if he is deemed to be a federal, rather than private, actor.

Whether it is in the United States' interest to extend the federal actor's protection to private persons who serve on federal advisory commissions, of course, is a policy issue that remains unresolved. Assuming *arguendo* that we wanted to provide commissioners as much protection as possible, both FACA and the FTCA are amenable to that result.

As noted above, FACA provided that members of federal advisory commissions "while engaged in the performance of their duties away from their homes or regular places of business, may be allowed travel expenses, including per diem ***, as authorized by section 5703 of title 5 *** for persons employed intermittently in the Government service ***" -- which expressly applies to government consultants. 5 U.S.C. App. 2 § 7(d)(1)(B). From this alone, one could read FACA as providing that federal advisory commissioners shall be deemed intermittent government employees.

Even if commissioners are not deemed intermittent federal employees for purposes of Title 5, they still may be deemed "employees" under the FTCA. In addition to traditional employees, Congress extends the FTCA's application to conduct of

persons acting on behalf of a federal agency in an official capacity, temporarily or permanently in the service of the United States, whether with or without compensation.

Almost by definition, a member of a federal advisory commission is "acting on behalf of a federal agency in an official capacity." The fact that often he acts without compensation is immaterial to whether he is deemed a federal employee for purposes of the FTCA.

Consequently, in the event a policy decision were made that the United States should take the position that federal advisory commission members are employees in order to receive the benefit of the immunity doctrines and the Reform Act, that position would clearly be supportable under FACA and the FTCA.

Document Separator

SAM NUNN, GEORGIA, CHAIRMAN

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ARNOLD L. PUNARO, STAFF DIRECTOR
PATRICK A. TUCKER, STAFF DIRECTOR FOR THE MINORITY

002224

United States Senate

COMMITTEE ON ARMED SERVICES
WASHINGTON, DC 20510-6050

June 28, 1991

The Honorable James Courter
Chairman
Base Closure and Realignment Commission
1625 K Street, Suite 400
Washington, DC 20006

Dear Chairman Courter:

The Senate Armed Services Committee is scheduled to mark up the National Defense Authorization Bill for Fiscal Years 1992 and 1993 during the week of July 8. We hope to report a bill to the Senate in mid-July and complete Senate consideration prior to the August recess.

In preparing for the mark-up of the Subcommittee on Readiness, Sustainability and Support, four changes to the current base closure authority are under consideration. Since the Commission is currently fully engaged in making its recommendations to the President regarding specific closure and realignment proposals, I suspect that you have not had an opportunity to develop legislative proposals which might strengthen the Commission and facilitate the base-closure and realignment process. I understand that the Commission may provide an after action report with any such recommendations later this summer.

In order to receive the benefit of your counsel based upon your experience in the 1991 process, I would ask your evaluation of these four proposed amendments, if possible prior to the Subcommittee's mark-up on July 9 or the completion of the full committee's work scheduled for July 13.

The four proposed amendments would accomplish the following:

1. Commission Authority: Delete the standard of "substantial deviation" for the Commission decisions to alter the recommendations of the Secretary of Defense. This would clarify the independent authority of the Commission.
2. Time for Commission Analysis: Expand the period of the Commission's work to four and one half months by beginning the process by March 15 and requiring the

Commission's report to the President no later than August 1.

3. Commission Staffing: In order to provide succeeding Commissions with an experienced, independent core staff who would have already been developing closure and realignment initiatives, the amendment would mandate that a cadre of professional analysts be retained as Commission employees during the periods between active consideration of Department of Defense recommendations. In the future, Department of Defense staff personnel would be precluded from serving in research and evaluation functions on the Commission staff.
4. Funding of Environmental Restoration: In order to separate the environmental clean-up priorities of closing and remaining military bases, this proposal would establish the 1990 Base Closure Account as the exclusive funding source for clean-up related to installations closing or realigning under the Commission's authority. This provision would parallel the arrangement being followed for funding the environmental clean-up of the installations being closed under the recommendations of the 1988 Base Closure Commission.

Mr. Chairman, I appreciate the difficult task which you and your colleagues are performing. I believe that each of these four proposed amendments would strengthen the independence of succeeding Commissions and provide your successors the time to do the thorough analysis which I know you are committed to performing under the current, very restrictive time constraints.

I would appreciate your early review of these proposals and would value your personal views, or any consensus views of the Commissioners, prior to our marking up this year's National Defense Authorization Bill in early July.

Kindest personal regards,



Alan J. Dixon
Chairman
Subcommittee on Readiness,
Sustainability and Support

Document Separator

AMENDMENT NO. _____

Calendar No. _____

Purpose: To revise the restrictions relating to interim staff of
the Defense Base Closure and Realignment Commission

IN THE SENATE OF THE UNITED STATES—102d Cong., 1st Sess.

S. 1507

To authorize appropriations for fiscal years 1992 and 1993 for
military activities of the Department of Defense, for
military construction, and for defense activities of the
Department of Energy, to prescribe personnel strengths
for such fiscal years for the Armed Forces, and for other
purposes.

Referred to the Committee on _____
and ordered to be printed

Ordered to lie on the table and to be printed

AMENDMENT intended to be proposed by Mr. NUNN

Viz:

- 1 On page 369, strike out line 8 and all that follows
- 2 through "(D)" on line 16, and insert in lieu thereof the
- 3 following:
- 4 "(A) there may not be more than 15 persons on
- 5 the staff at any one time;

SCO91.494

2

S.L.C.

1 “(B) the staff may perform only such functions
2 as are necessary to prepare for the transition to new
3 membership on the Commission in the following
4 year; and

5 “(C)

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THE ASSISTANT SECRETARY OF DEFENSE

WASHINGTON, D. C. 20301-1300

July 22, 1991

JUL 24 1991

LEGISLATIVE
AFFAIRS

LEGISLATIVE AFFAIRS ADVISORY

SUBJECT: OVERSEAS MILITARY BASE CLOSURES

Dear Member of Congress:

The number of United States troops stationed overseas has been declining, due both to the diminished Soviet threat and to budget reductions. With these force structure reductions, we are reducing the number of overseas bases and facilities maintained by the United States.

Since January 1990, the Secretary of Defense has announced the withdrawal, or partial withdrawal, of U.S. forces from 235 overseas facilities.

Attached for your information is a fact sheet on the overseas closure process and a list of all overseas closure announcements to date. As the force structure is further reduced, there will undoubtedly be additional announcements. We will keep you informed.

Sincerely,

Dave Gribbin
Assistant Secretary of Defense
(Legislative Affairs)

Attachment

FACT SHEET

Overseas Base Structure Reductions

Status of Overseas Reductions

* In announcements since January 29, 1990, the Secretary of Defense has announced the return, partial return to host governments, or assignment to standby status of 235 overseas sites (as of July 15, 1991).

* Overseas, U.S. forces do not own the land on which they are based or operate. The host nation retains title to the land and makes it available to U.S. forces.

* Theater military commanders continue to reduce the overseas base structure as future core requirements are identified and force levels decline.

* * In Europe, tactical fighter wings will be reduced from eight wings to slightly over three wings by 1995. Ground divisions will go from five to approximately two divisions.

* Additional announcements are anticipated for 1991 and subsequent years.

Process

* Unified Military Commanders nominate overseas sites for return or partial return to host governments or conversion to standby status. Decisions are based on existing and projected force structure. Considerations/criteria include:

** Threat

** Numbers and types of forces.

** Personnel and logistics support requirements.

** Geographical Location

- optimum to support assigned mission
- proximity to threat
- proximity to transportation assets

** Agreements with host nations

- limits on numbers and types of stationed forces (peacetime and wartime)
- restrictions on type weapons/ammunition
- ability to train (low level flying, night firing, use of ranges)

Note. For the purpose of this paper, the term "site" is used to describe any distinct parcel of land overseas, regardless of size, that U.S. forces use and maintain.

- intra-theater movement of forces
- host nation support agreements
- political sensitivities

**** Existing facility inventory**

- geographical considerations
- flexibility to support current and probable future missions
- age and condition
- recurring costs
- local area support (utilities, security, off-base housing, political opposition)

* Proposals are reviewed by the Joint Chiefs of Staff, various Defense Department components, the National Security Council, and the State Department (including appropriate American embassies).

* Host Governments are informed of U.S. intentions to close/realign sites and invited to comment.

* Taking account of U.S. agency and host nation recommendations, adjustments to proposed closures are made as appropriate.

* Following Secretary of Defense approval, notification is made to Congress, host governments, and the media.

Negotiations.

* Following public announcements, U.S. theater military commands begin negotiations with host governments on the return of specific sites.

** Negotiations are conducted in accordance with existing base rights and stationing agreements and, generally, include compensation for the sites returned, host nation damage claims, and disposition of equipment.

** Majority of bilateral agreements between the U.S. and host governments provide for negotiation of compensation for the residual value of vacated sites.

** Within the provisions of existing agreements, the starting point for negotiations is the sum of all capital investments at a specific site - appreciated for inflation over time and depreciated for age and condition of the facilities.

OVERSEAS SITES

Return/Reduce/Standby Operations

<u>Public Announcement Date</u>	<u>Decision</u>	<u>Sites</u>
January 29, 1990	Return	- 44
	Reduce	- 2
	Standby status	- 2
September 18, 1990	Return	- 126
	Reduce	- 21
	Standby status	- 3
February 5, 1991	Return	- 1
April 12, 1991	Return	- 28
	Reduce	- 4
	Standby status	- 1
May 2, 1991	Reduce	- 1
May 17, 1991	Return	- 2
<u>Totals</u>		
	Return	- 201
	Reduce	- 28
	Standby status	- <u>6</u>
	Total	235

July 15, 1991

OVERSEAS SITES
(Return/Reduce/Standby
Operations)

Australia

Harold E. Holt Communications Station (Main Site) *
HF Receiver site *
VLF Transmitter site *

Bermuda

Bermuda Naval Air Station (reduce)
Naval Facility, Bermuda (1 site - reduce)

Canada

Naval Facility Argentia - Main Site (reduce)

Germany

Alhorn Air Base (return) *
Ansbach Military Community (1 site - return)
Aschaffenburg Military Community (7 sites - return)
Augsburg Military Community (6 sites - 5 return/1 reduce)
Bad Toelz Military Community (9 sites - return) *
Bamberg Military Community (3 sites - return)
Baumholder Military Community (1 site - reduce)
Darmstadt Military Community (1 site - return)
Frankfurt Military Community (5 sites - 2 return/3 reduce)
Fulda Military Community (4 sites - 3 return/1 reduce)
Giessen Military Community (4 sites - 3 return/1 reduce)
Goeppingen Military Community (3 sites - return)
Grafenwoehr Military Community (6 sites - return)
Hahn Air Base (1 site - reduce)
Hanau Military Community (5 sites - 4 return/1 reduce)
Heilbronn Military Community (4 sites - 2 return/2 reduce)
Hessich Oldendorf Air Base (5 sites - return) *
Karlsruhe Military Community (2 sites - return)
Lindsey Air Base (2 sites - return)
Mainz Military Community (2 sites - 1 return/1 reduce)
Mannheim Military Community (2 sites - 1 return/1 reduce)
Munich Military Community (12 sites - return)
Neu Ulm Military Community (21 sites - return) *
Nuernberg Military Community (3 sites - 2 return/1 reduce)
Pirmasens Military Community (1 site - return)
Rheinberg Military Community (1 site - return)
Sembach Air Base (2 sites - 1 return/1 reduce)
Stuttgart Military Community (11 sites - 10 return/1 reduce)
Wiesbaden Hospital (Lindsey Air Base) (1 site - standby)

* indicates return of all sites/facilities at this location

Worms Military Community (2 sites - 1 return/1 reduce)
Wuerzburg Military Community (4 sites - 3 return/1 reduce)
Zweibruecken Air Base (5 sites - return) *
Zweibruecken Military Community (4 sites - return)

Greece

Nea Makri Naval Communications Station (3 sites - return) *
Hellenikon Air Base (12 sites - return) *
Eleusis (2 sites - return) *
Lefkas Radio Relay site (return) *

Italy

Comiso Air Base (3 sites - return) *
Aviano (3 sites - return)
NSA Naples (reduce)

Japan

MCB Camp S.D. Butler, Okinawa (1 site - Camp Foster - reduce)
Naval Air Facility, Kadena, Okinawa (reduce)

Korea

Kwang Ju Air Base *
Suwon Air Base *
Taegu Air Base *
Other facilities (12 sites)
 Trans Korea Pipeline (8 sites - 5 return/3 reduce)
 Communications sites (4 sites - return)

Philippines

San Miguel Naval Communications Station (reduce)

Spain

Rota NAVSTA (3 sites - return)
Torrejon Air Base (9 sites - return) *
Zaragoza Air Base (2 sites - standby)

Turkey

Erhac Air Base (3 sites - return) *
Eskisehir Munitions Site (2 sites - return) *
Ankara (Samsun) (1 site - return)

* indicates return of all sites/facilities at this location

United Kingdom

RAF Bentwaters (2 sites - return)
Chessington Hospital Facility (1 site - return) *
RAF Fairford (5 sites - 4 return/1 standby)
RAF Greenham Common (10 sites - 9 return/1 standby)
Holy Loch Submarine Base (1 site - return) *
Kirknewton Facilities (1 site - return) *
RAF Sculthorpe (1 site - return) *
RAF Upper Heyford (standby)
RAF Wethersfield (2 sites - return) *
RAF Woodbridge (RAF Bentwaters) (1 site - return) *

* indicates return of all sites/facilities at this location

Document Separator



DEFENSE BASE CLOSURE AND REALIGNMENT COMMISSION
1625 K STREET, N.W. SUITE 400
WASHINGTON, D. C. 20006-1604
202-653-0823

JIM COURTER, CHAIRMAN

COMMISSIONERS:
WILLIAM L. BALL, III
HOWARD H. CALLAWAY
GEN. DUANE H. CASSIDY, USAF (RET)
ARTHUR LEVITT, JR.
JAMES SMITH II, P.E.
ROBERT D. STUART, JR.

July 27, 1991

MEMORANDUM

TO: Matt
FR: Jamie 
RE: Overseas Base Closure Resolution

On Friday, it became apparent that the House plans to take up a resolution on overseas base closure this week. As of late Friday, there was no proposed language, not even in rough draft form. However, I have provided some background information.

The resolution will be introduced on Monday, July 29, by Reps. Les Aspin, Pat Schroeder, and Dick Gephardt. It is the product of the Democratic Leadership's weekly Whip meeting of Thursday, July 25. At that meeting, many of the Members complained that they were "catching flack" from their Districts for not closing bases overseas. The members initially wanted to amend H.J.Res. 308, the Motion of Disapproval, but learned that such action would violate the statute.

At that point, Speaker Tom Foley weighed in and suggested a separate free-standing resolution. I am told he was proposing a "Sense of the Congress" resolution to make almost everyone happy and to avoid the risk of a veto from the Bush Administration. Others at the meeting argued that the resolution must be binding and should seriously address the issue. The meeting ended without a definite agreement on language, only that Chairman Aspin would work it out to everyone's satisfaction.

I found out that at least two options, maybe more, are being discussed. They are:

- A non-binding Sense of the Congress resolution; and
- A binding joint resolution calling on the Commission to report on overseas bases when it issues its 1993 and 1995 recommendations to the President. It is uncertain whether this would entail making recommendations on specific facilities or just submitting general recommendations for overall overseas force strength and structure.

A binding joint resolution would surely prompt a veto from the Administration since it could be argued that overseas bases are directly related to the conduct of foreign policy and therefore a prerogative of the Executive Branch. In addition, since the USG does not own the land on which overseas bases are located, the Commission would have to look at different criteria since we would not be able to recommend the land be sold. The issue of bilateral treaties between our country and the host nations would make the work of the Commission difficult, if not impossible.

The Rules Committee will act on the resolution either Monday afternoon or Tuesday morning. It would be considered prior to the Foglietta/Snowe Disapproval Motion. The feeling among the staff I spoke with on Friday is that the resolution will pass the House overwhelmingly, but likely languish in the Senate. However, it is still too early to tell what might happen since the language is not even finalized.

cc: Paul Hirsch
Ben Borden
Bob Moore ✓
Cary Walker

Document Separator

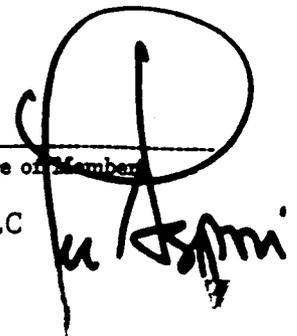
102d CONGRESS

1st SESSION

H. J. RES. 313

(Original signature of Member)

HLC



Insert
title
here
☞

To provide that the Defense Base Closure and Realignment Commission shall make recommendations in 1993 and 1995 for the closure and realignment of military installations outside the United States.

IN THE HOUSE OF REPRESENTATIVES

_____, 19____

Insert
sponsor's
names
here
☞

Mr. ASPIN (for himself and Mrs. SCHROEDER) introduced the following joint resolution; which was referred to the Committee on _____

- a. 1 hour debate on rule
- b. 1 hour general debate - Schroeder / Aspin
- Martin
- c. ONE motion to recommit

JOINT RESOLUTION

1 The Defense Base Closure and Realignment Act of 1990 (10
2 U.S.C. 2687 note; 104 Stat. 1808) is amended by adding at the
3 end the following new section:

4 ``SEC. 2912. MILITARY INSTALLATIONS OUTSIDE THE UNITED
5 STATES.

6 ``The Secretary and the Commission shall, with respect to
7 recommendations made for closure and realignment of military
8 installations in 1993 and 1995, include recommendations for
9 the termination and reduction of military operations carried
10 out by the United States at installations outside the United
11 States.''.
12

U.S. HOUSE OF REPRESENTATIVES

98th Congress

7/29/91 (Date)

Pursuant to Clause 4 of rule XXII of the rules of the House of Representatives, the following sponsors are hereby added to

H.R. _____

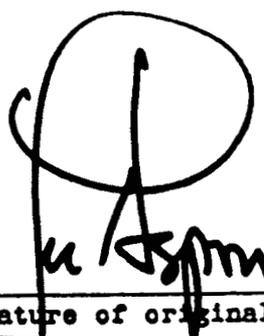
H. Con. Res. _____

H. Res. _____

H.J. Res. _____

1. Aspin
2. Schroeder
3. Abernethy
4. Tom Andrews
5. Rob Andrews
6. Foglietta
7. McCloskey
8. Browder
9. Taylor (Gene)
10. Bonior
11. Jack Reed
12. Lane Evans
13. Pete Geren
14. Sisk
15. Boxer
16. Marrowles
17. Barney Frank
18. Byron Dorgan
19. John Bryant
20. Robin Talton

21. Chet Atkins
22. Panetta
23. Weldon
24. Ravenel
25. Swift
26. DURBIN
- 27.
- 28.
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- 30.
- 31.
- 32.
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- 37.
- 38.
- 39.
- 40.

X 

 Signature of original sponsor



DEFENSE BASE CLOSURE AND REALIGNMENT COMMISSION
1625 K STREET, N.W. SUITE 400
WASHINGTON, D. C. 20006-1604
202-653-0823

DRAFT

JIM COURTER, CHAIRMAN

COMMISSIONERS:
WILLIAM L. BALL, III
HOWARD H. CALLAWAY
GEN. DUANE H. CASSIDY, USAF (RET)
ARTHUR LEVITT, JR.
JAMES SMITH II, P.E.
ROBERT D. STUART, JR.

August 1, 1991

MEMORANDUM FOR THE RECORD

FROM: Wendi W.

SUBJECT: Status of the Senate Defense Authorization Language & S.J. Res. 175, the Resolution of Disapproval

Regarding the defense authorization bill, the Senate's plan for today is as follows:

- o Finish all S.D.I. amendments;
- o Consider all B-2 amendments. Action on the B-2 should be completed by late afternoon or early evening;
- o Move to consideration of abortion amendments and other "cats-and-dogs"; and,
- o End the day with a group of noncontroversial amendments including any amendments regarding the Defense Base Closure and Realignment Commission.

Regarding changes in the Base Closure statute, Senators Mitchell and Cohen have three changes they will make to the anticipated Senate amendment:

- o Any information provided to the Commission by DoD must be given to the House and Senate by the Secretary of Defense within 24 hours;
- o No DoD detailee may be an R&A team leader; and,
- o Only 1/5 of the DoD detailees may be R&A staff (The Armed Services Committee mark reads that 1/3 of the DoD detailees may be R&A staff). In other words, only 1/5 of 1/3 of the Commission staff may be R&A staff detailed from DoD. (If 60 people are on staff, 4 could be DoD-detailed R&A staff.) Note: there is no cap on the total number of R&A staff or the total number of Commission staff.

I will provide the actual language when it becomes available.

Document Separator

August 2, 1991

MEMORANDUM FOR THE RECORD

FROM: Wendi *Wendi*

SUBJECT: Update on Senate Defense Authorization bill

Last evening the Senate passed two amendments regarding the Defense Base Closure and Realignment Commission. Both contained language which we had anticipated.

The first was amendment # 1025, offered by Senators Mitchell and Cohen. This amendment had previously been cleared by both parties and was adopted by voice vote. The amendment was attached to the update I provided yesterday afternoon. It includes: the Secretary of Defense providing the House and Senate with all information provided to the Commission during its review; no team leader being detailed from DoD; and, provides a cap of 1/5 of the R&A professional staff being detailed from DoD.

The second amendment was number 1026, an amendment by Senators Nunn, Dixon and Warner providing for a corps Commission staff during the off-years. The amendment allows for 15 staff, 5 of which may be analysts. Senator Nunn said that this corps staff may among other things prepare a follow-on report and prepare for the upcoming Commission. The Senator said that this corps staff would allow the Commission to establish an experienced and independent analytical capability.

The Floor debate on these two amendments will be published in part II of yesterday's Congressional Record. It is not yet available, but I will provide copies as soon as possible.

This morning the Senate passed an amendment by Senators Johnston and Breaux regarding the conveyance of closed bases to neighboring communities. If anyone would like to review the language, I have it in the office.

There are still no plans for consideration of the resolution of disapproval at this time.

There is not a scheduled plan to take up the resolution of disapproval, however the Senate may choose to do so at any time.

Lastly, the Senate currently plans to fold the House overseas basing resolution into the defense authorization conference. This would occur after August recess. No separate amendments are anticipated at this time.

Document Separator



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1625 K STREET, N.W. SUITE 400
WASHINGTON, D. C. 20006-1604
202-653-0823

JIM COURTER, CHAIRMAN

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August 1, 1991

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I will provide the actual language when it becomes available.

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JAMES SMITH II, P.E.
ROBERT D. STUART, JR.

TO: Matt Behrmann
FROM: Barry Rhoads *BRK*
DATE: July 19, 1991
SUBJECT: Bullet Summary of Committee Recommended Changes to the
Defense Base Closure and Realignment Act

Summarized below are the proposed changes to the Defense Base Closure and Realignment Act. Additionally, I have attached the Committee Report and a copy of the current statute with the proposed changes included therein.

Summary of the Senate Draft Legislation

- * If the President does not meet the deadline for appointing commissioners the process is terminated;
- * The staff of professional analysts is specifically limited to consisting of no more than one-third detailees from DoD;
- * If a DoD employee worked on preparing DoD's recommendations, that individual may not be detailed to the Commission;
- * DoD employees are prohibited from preparing efficiency reports on any DoD employee detailed to the Commission;
- * During the transition years of 1992 and 1994, no Commission staff may be employed prior to October 1, staff is limited to no more than ten individuals, staff work is limited to administrative functions only, and no DoD employee including military personnel are permitted to serve on the ten person staff;
- * Changes to DoD's final criteria must be made by January 15, 1993 and 1995 and Congress must disapprove the changes by February 15th. The current law contains the dates February 15 and March 15 respectively;
- * The Secretary of Defense is not only required to make all information used in the decision making process available to the Commission and GAO, but now must make such information available to the Congress upon request;
- * Those individuals submitting information concerning realignments or closures, must now "certify that such information is accurate and complete to the best of that

person's knowledge and belief";

- * If the Commission determines that a change to the Secretary's list should occur, and that change includes, (1) the addition of a base for closure, (2) the addition of a base for realignment, or (3) an increase in the extent of a realignment recommended by the Secretary, such changes must be published in the Federal Register for not less than thirty days before transmission to the President and public hearings on the proposed changes must be conducted;
- * Funds in the Base Closing Account may continue to be used for environmental restoration or mitigation, but the current language permitting other funds appropriated to DoD to be used for environmental restoration or mitigation is deleted;
- * The proposed change includes an amendment to the definition of "military installation" which deletes from the definition, "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." Moreover, the amendment attempts to make this change retroactive to November 5, 1990; and
- * Included in the proposed amendment is language that clarifies the Commission's obligation not to withhold any information from the Congress.

Defense Base Closure Amendments

The Defense Base Closure and Realignment Act (title XXIX of the National Defense Authorization Act for Fiscal Year 1991) established a procedure to govern the complex and difficult issue of base closures and realignments. The procedure applies to the closure or realignment of those military activities in the United States covered by section 2687 of title 10, United States Code.

Pursuant to the Act, the President nominated and the Senate confirmed members of the 1991 Defense Base Closure and Realignment Commission. The Secretary of Defense, as required by the Act, developed, circulated for comment, and published criteria for selecting military installations. In addition, the Secretary developed a long-term force structure plan, as required by the Act. On April 12, 1991, the Secretary published his recommendations, which called for the closure of 43 installations and the realignment of 28 others.

The Commission, assisted by the General Accounting Office, analyzed the Secretary's list. After a series of installation visits and public hearings, the Commission identified additional installations and activities for consideration for closure or realignment.

In its report to the President on July 1, the Commission recommended the closure of 34 installations and the realignment of 48 others. The President subsequently approved the Commission's report and forwarded it to Congress. If a resolution of disapproval is not enacted within the 45-day period specified in section 2904(b) of the Act, the closure and realignment recommendations of the Commission will have the force and effect of law.

The process followed by the Department and the Commission has come under intense public scrutiny. The committee has monitored this process closely. The Commission has worked hard to encourage public participation. All Commission hearings have been open, and many were extensively covered by the media. Although the committee reserves judgment on the merits of the Commission's recommendations, the committee believes that the process, in general, has operated in a manner consistent with the intent of the Act.

The experience of the last several months has highlighted a number of areas which call for improvement in the implementation of that process. The committee recommends the following improvements in the operation of the Act in the event that the Secretary of Defense recommends additional installations for closure or realignment in 1993 or 1995:

1. The time available to the Commission and to the General Accounting Office to analyze and make recommendations concerning the closures and realignments recommended by the Secretary of Defense would be increased by one month. This would be accomplished by establishing earlier deadlines for the Department of Defense to develop closure criteria, publish a long-term force structure plan, and for the Secretary to make his recommendations to the Commission. The revised deadline for the Secretary's recommendations would be March 15, rather than April 15.

In order to insure that the Commission has sufficient time to organize itself prior to receiving the Secretary's recommendations, the legislation would require the President to submit to the Senate a complete slate of nominees for the Commission within the statutory deadlines in January 1993 and January 1995 as a precondition for using the base closure procedures under the Act.

2. The legislation would clarify the procedures the Commission must use in considering for closure or realignment any installations or activities outside the list recommended by the Secretary. The Commission would be required to identify such installations and activities in the Federal Register at least 30 days prior to the submission of the Commission's report to the President, and to hold public hearings concerning these additional installations. The legislation would make it clear that the Commission can add installations to the Secretary's list of recommended actions only if the Commission determines that the Secretary deviated substantially from the published force structure plan and final criteria. Any additions to the Secretary's list by the Commission must be consistent with the Department's force structure plan and the final criteria.

3. The legislation would provide that in 1992 and 1994 (the years in which the base closure process does not operate), no staff could be employed until October 1. At that time, the outgoing Chairman could appoint a staff of not more than 10 administrative personnel, whose sole function would be to perform such administrative functions as are necessary to prepare for the transition to new membership on the Commission in the following year.

4. Under current law, no more than one-third of the Commission's staff may be detailed from DOD. To further strengthen the independence of the staff, the legislation would provide the following additional limitations: (a) no more than one-third of the Commission's research and analysis staff could be detailed from DOD; (b) DOD personnel who had been personally involved in the development of Department closure and realignment initiatives during the previous 12 months could not be detailed to the Commission; and (c) no employee of the Department could render performance reports on Commission staff detailed from the DOD for the period of their service to the Commission.

5. To underscore the importance of base closure and realignment information submitted to the Secretary of Defense or to the Commission, the legislation would require persons in a position of responsibility with respect to such submissions to certify the accuracy and completeness of the information. In addition, the legislation would require that the Department, in the presentation of a military construction request, use the same estimates that were used by the Department during the base closure and realignment process for that project. In the event that there are any differences in project cost estimates (other than adjustments for inflation), the Department would be required to explain such differences in the budget justification material. In addition, the DOD Inspector General would investigate any project involving a significant difference between the estimates submitted to the Commission and the estimates in the budget request, to determine the reasons for the differences, including a determination as to whether any of the information submitted to the Commission was inaccurate, incomplete, or misleading in any material respect.

6. A key element to public support for the base closure process is the prompt disclosure to the Commission, GAO, and Congress of all information used by the Department in making its recommendations, including information about installations not on the list used for comparative purposes. The legislation would expressly set forth the Department's obligation to respond to any request from Congress, including a request from a committee or a Member of Congress, for any such information. Similarly, the legislation would encourage communications with the Defense Base Closure and Realignment Commission by expanding the applicability of prohibitions against interference with communications by members of the armed forces contained in section 1034 of title 10, United States Code.

7. The legislation would establish the Department of Defense Base Closure Account as the sole source of funds for the environmental restoration of installations being closed under the Act.

8. The legislation would make it clear that Congress intended, in enacting the Defense Base Closure and Realignment Act, to exclude from the Act's coverage those facilities used primarily for civil works, rivers and harbors projects, flood control, or other projects not under the primary jurisdiction of the Department of Defense. This aspect of the recommended legislation has retroactive effect, ensuring that the Corps of Engineers civil works activities on the Commission's 1991 list are not subject to closure or realignment under the Act. This action would not have any effect on the balance of the Commission's recommendations, which are subject to review by Congress under section 2904(b) of the Act.

(3) 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

(4) 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 an adjournment of more than three days to a day certain shall be excluded in the computation of a period.

SEC. 2905. IMPLEMENTATION

10 USC 2657
note.

(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—

Community
action programs.

(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 may use for such purposes funds in the Account or funds appropriated to the Department of Defense for environmental restoration and mitigation;

Environmental
protection.

(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.

Environmental
protection.

(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 and facilities located at a military installation closed or realigned under this part—

(A) the authority of the Administrator to utilize excess property under section 202 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 483);

(B) the authority of the Administrator to dispose of surplus property under section 203 of that Act (40 U.S.C. 484);

(C) the authority of the Administrator to grant approvals and make determinations under section 13(g) of the Surplus Property Act of 1944 (50 U.S.C. App. 1622(g)); 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 (C), the Secretary of Defense shall exercise the authority delegated to the Secretary pursuant to paragraph (1) in accordance with—

(i) all regulations in effect on the date of the enactment of this Act 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 in effect on the date of the enactment of this Act 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, after consulting with the Administrator of General Services, may issue regulations that are necessary to carry out the delegation of authority required by paragraph (1).

(C) The authority required to be delegated by paragraph (1) to the Secretary by the Administrator of General Services shall not include the authority to prescribe general policies and methods for utilizing excess property and disposing of surplus property.

(D) 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.

(E) Before any action may be taken with respect to the disposal of any surplus real property or facility located at any military installa-

tion 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.

(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.

SEC. 2906. ACCOUNT

(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.

10 USC 2657
note.

(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

104 STAT. 1816

PUBLIC LAW 101-510—NOV. 5, 1990

(C) proceeds received from the transfer or disposal of any property at a military installation closed or realigned under this part.

(b) **USE OF FUNDS.**—(1) The Secretary may use the funds in the Account only for the purposes described in section 2905(a).

(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) 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.

(2) Unobligated funds which remain in the Account after the termination of the Commission shall be held in the Account until transferred by law after the congressional defense committees receive the report transmitted under paragraph (3).

(3) No later than 60 days after the termination of the Commission, 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; and

(B) any amount remaining in the Account.

10 USC 2657
note.

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.

10 USC 2657
note.

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 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 (but only on the day after the calendar day on which such Member announces to the House concerned the Member's intention to do so). All points of order against the resolution (and against consideration of the resolution) are waived. 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.

10 USC 2557
note.

SEC. 2909. RESTRICTION ON OTHER BASE CLOSURE AUTHORITY

(a) IN GENERAL.—Except as provided in subsection (c), during the period beginning on the date of the enactment of this Act and ending on December 31, 1995, 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

10 USC 2657 note.

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 Committees on Armed Services and the Committees on Appropriations of the Senate and 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.

14 "Such term does not include any facility used primarily for
 15 civil works, rivers and harbors projects, flood control, or
 16 other projects not under the primary jurisdiction or control
 17 of the Department of Defense."

18 (2) The amendment made by paragraph (1) shall take effect
 19 as of November 5, 1990, and shall apply as if it had been
 20 included in section 2910(4) of Public Law 101-510 on that
 21 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.

SEC. 2911. CLARIFYING AMENDMENT

Section 2657(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."

ARM91 .428

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S.L.C.

1 "SEC. 2912. COMMUNICATIONS WITH THE COMMISSION

2 "Section 1034 of title 10, United States Code, applies
 3 with respect to communications with the Defense Base Closure
 4 and Realignment Commission."

5 (1) No Authority To Withhold Information.--Nothing in
 6 this section or in the Defense Base Closure and Realignment
 7 Act of 1990 shall be construed to authorize the withholding
 8 of information from Congress, any committee or subcommittee
 9 of Congress, or the Comptroller General of the United States.

TITLE XXIX—DEFENSE BASE CLOSURES AND REALIGNMENTS

PART A—DEFENSE BASE CLOSURE AND REALIGNMENT COMMISSION

Defense Base Closure and Realignment Act of 1990. 10 USC 2657 note.

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.

10 USC 2657 note.

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.

President.

(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.

23 (C) If the President does not transmit to Congress the
24 nominations for appointment to the Commission on or before
25 the date specified for 1993 in clause (ii) of subparagraph

78

1 (B) or for 1995 in clause (iii) of such subparagraph, the
2 process by which military installations may be selected for
3 closure or realignment under this part with respect to the
4 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.

Public information.

1

(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.

A-4

11 (B) Not more than one-third of the professional
 12 analysts of the Commission staff may be persons detailed from
 13 the Department of Defense to the Commission.
 14 (C) A person may not be detailed from the Department of
 15 Defense to the Commission if, within 12 months before the
 16 detail is to begin, that person participated personally and
 17 substantially in any matter within the Department of Defense
 18 concerning the preparation of recommendations for closures or
 19 realignments of military installations.

②

0 “(D) No member of the Armed Forces, and no officer or
1 employee of the Department of Defense, may (i) prepare any
2 report concerning the effectiveness, fitness, or efficiency
3 of the performance on the staff of the Commission of any
4 person detailed from the Department of Defense to that staff,
5 (ii) review the preparation of such a report, or (iii)
approve or disapprove such a report.”;

PUBLIC LAW 101-510

104 STAT. 1810

PUBLIC LAW 101-510—NOV. 5, 1990

(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)(A) During 1992 and 1994--

“(i) no person may be employed or detailed to serve on the staff of the Commission before October 1;

“(ii) there may not be more than 10 persons on the staff at any one time;

“(iii) the staff may perform only such administrative functions as are necessary to prepare for the transition to new membership on the Commission in the following year; and

“(iv) 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.

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

10 USC 2657
note.

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);

3

(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.

Federal Register publication.

(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

PUBLIC LAW 101-510—NOV. 5, 1990 104 STAT. 1811

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.

Federal Register publication.

(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 ~~February 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 ~~March 15~~ of the year concerned.

Jan 15

Feb 15

(c) DOD RECOMMENDATIONS.—(1) The Secretary may, by no later than April 15, 1991, ~~April 15, 1992,~~ and ~~April 15, 1993,~~ 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.

Federal Register publication. Mar 15, 1991

(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.

(3) 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.

(4) The Secretary shall make available to the Commission and the Comptroller General of the United States all information used by the Department in making its recommendations to the Commission for closures and realignments.

... The Secretary shall also make such information available, upon request, to Congress (including any committee or member of Congress).

“(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.

1 ''(B) Subparagraph (A) applies to the following persons:
2
3 ''(1) The Secretaries of the military departments.
4
5 ''(11) The heads of the Defense Agencies.
6
7 ''(111) Each person who is in a position the duties
8 of which include personal and substantial involvement in
9 the preparation and submission of information and
10 recommendations concerning the closure or realignment of
11 military installations, as designated in regulations
12 which the Secretary of Defense shall prescribe,
13 regulations which the Secretary of each military
14 department shall prescribe for personnel within that
15 military department, or regulations which the head of
16
17 each Defense Agency shall prescribe for personnel within
18 that Defense Agency.''

(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. Public information.

(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. Reports.

subject to
subparagraph (C)
in making

(B) ~~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

Public Law 101-510

104 STAT. 1812

PUBLIC LAW 101-510—NOV. 5, 1990

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

10 ''(C) The Commission may make a change to the Secretary's
11 recommendations as described in subparagraph (D) only if--
12 ''(1) the Commission makes the determination referred
13 to in subparagraph (B);
14 ''(11) the Commission determines that the change is
15 consistent with the force-structure plan and final
16 criteria referred to in subsection (c)(1);
17 ''(111) the Commission publishes a notice of the
18 proposed change in the Federal Register not less than 30
19 days before transmitting its recommendations to the
20 President pursuant to paragraph (2); and
21 ''(1v) the Commission conducts public hearings on the
22 proposed change.
23 ''(D) Subparagraph (C) applies to a change of the
24 Secretary's recommendations that--

5

“(1) adds a military installation to the list of

1 military installations recommended by the Secretary for
2 closure;

3 “(11) adds a military installation to the list of
4 military installations recommended by the Secretary for
5 realignment; or

6 “(111) increases the extent of a realignment of a
7 particular military installation recommended by the
8 Secretary.”

(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.

Reports.

(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 May 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.

Reports.

(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.

19 USC 2657
note.

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;

Document Separator

August 1, 1991

MEMORANDUM FOR THE RECORD

FROM: Wendi W

SUBJECT: UPDATE ON SENATE DEFENSE AUTHORIZATION BILL LANGUAGE

The amendment intended to be proposed by Senators Mitchell and Cohen is different than previously reported on one account:

- o The amendment would say that "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."

7131/91-2110

AMENDMENT intended to be proposed by Mr. Mitchell (for himself and Mr. Cohen)

On page 368, strike out lines 14-16 and insert the following in lieu thereof:

"(B)(1) 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.

"(2) 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."

On page 371, between lines 6 and 7, insert the following:

"(6) The Secretary of Defense shall prescribe regulations to ensure that any information provided to the Commission by a person described in paragraph (5)(B) shall, within 24 hours of the submission of such information to the Commission, be submitted to the Senate and the House of Representatives, and shall be made available to the Members of each such House in accordance with the rules of each such House."

Explanation of the Amendment

- The amendment strengthens the independence of the Commission and the availability of information to Congress by making the following changes:
 - Amends the bill (which provides that no more than one-third of the Commission's professional analysts may be detailed from DoD) to provide that no more than one-fifth of the Commission's professional analysis may be detailed from DoD.
 - Provides that no person detailed from DoD may serve as the lead professional analyst with respect to a military department or defense agency. This means, for example, that the head of the Commission's research staff with responsibility for Army installations must be a non-DoD civilian.
 - Ensures that any information provided to the Commission by DoD officials involved in the base closure process must be provided to the Armed Services Committees within 24 hours. In view of the very tight time frames for making presentations to the Commission, this will ensure that Members of Congress have timely access to all

official information transmitted from DoD to the
Commission.

Document Separator



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ROBERT D. STUART, JR.

August 5, 1991

NOTE FOR THE RECORD

FROM:

Wendi W.

SUBJECT: Congressional Record on Base Closure Amendments

The attached includes the two amendments to the defense authorization bill regarding the Defense Base Closure and Realignment Commission. As you can see, there was no Floor debate and both were agreed to by voice vote.

The amendment regarding the conveyance of closed military installations to the neighboring communities was brought up for discussion Thursday evening and voted on Friday morning. The attached includes the Floor debate of Thursday evening. The closing arguments are not yet available in the Congressional Record. (As you recall, the amendment did pass on Friday.)

I will provide the final discussion from the Record when it becomes available.

The Senate did not act upon the Resolution of Disapproval before going into recess. The Senate will reconvene on September 10.

No. 120—Part II

Vol. 137

WASHINGTON, THURSDAY, AUGUST 1, 1991

No. 120

Congressional Record



United States
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PROCEEDINGS AND DEBATES OF THE *102^d* CONGRESS, FIRST SESSION

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both of them this evening and we would require one or two rollcall votes.

It would be my view that we would not stay any later than around 11:30, 11:45 in that timeframe. If we can handle these two amendments tonight, we will have a chance of finishing this bill at a reasonable hour tomorrow. If we do not handle these two amendments tonight I know of at least five other amendments that we have rollcall votes on and debate tomorrow. So it moves us more toward tomorrow night.

It really depends on the body. If we want to go home in the next 15 minutes, not handle these amendments tonight, in my view we are talking about very late tomorrow afternoon or tomorrow evening.

Mr. DOLE. As I understand there may be an objection to the Wirth amendment. I am not familiar with the amendment, do not know what it does; that there have been discussions between—

Mr. NUNN. There are discussions going on.

Mr. DOLE. Between Senator COATS and JOHNSON, with reference to the Johnston Amendment if we can determine the next few minutes that we can or cannot get agreements the managers could make a decision on what they might do.

Mr. NUNN. I suggest if we do not get agreement, we try to debate one or both of those amendments tonight. If we do not get an agreement, there is not any need keeping people around because we will probably not have a vote for a long time.

I would also inform my colleagues if we do not get agreement on these two amendments tonight I do not see how we can finish this bill before 8 or 9 o'clock tomorrow night. If we do get agreement on these two amendments tonight, can handle them tonight, I believe we can get through here sometime by midafternoon tomorrow. That is a guess as everyone knows, because you never know what is coming. That is my best estimate now.

Mr. DOLE. I would say to the managers, I will try personally to see if we can determine one way or the other, because it does not do anybody any good just not to know. So once we can make the judgment then the managers can decide whether to proceed without an agreement or try to get an agreement.

Mr. NUNN. I thank the minority leader. I agree with that completely.

Mr. President, I will be glad to be interrupted on these amendments at any time either one of these have a time agreement if we have one. But I am going to proceed with the amendments.

Mr. President, unless there is a change of mind, the only time agreement that appears available on the Johnston amendment would it seems to me 2½ hours. I myself would object to that because I do not think it is fair to other people. I believe if we do not

cut the time down below that, it is going to set a precedent. We will be here Saturday, Sunday, from now on. I object to that kind of time agreement. I would encourage the parties to continue to talk behind the scenes and see if they can cut that down by getting a better fix on how many people want to speak.

AMENDMENT NO. 1023

(Purpose: To prohibit the acquisition of unneeded items of supply by the Department of Defense stock funds, and for other purposes)

Mr. NUNN. Mr. President, on behalf of Senator LEVIN, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Georgia [Mr. NUNN], for Mr. LEVIN, proposes an amendment numbered 1023.

Mr. NUNN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in the bill, insert the following new section:

SEC. . ACQUISITION OF INVENTORY.

(a) The Secretary of Defense may not incur any obligations against the stock funds of the Department of Defense for the acquisition of any items of supply if such acquisition is likely to result in an on-hand inventory (excluding war reserves) of such items of supply in excess of two years of operating stocks.

(b) Notwithstanding subsection (a), the head of a procuring activity may authorize the acquisition of an item of supply if such head of a procuring activity determines in writing that such acquisition is necessary for industrial base purposes or for other national security reasons.

Mr. NUNN. Mr. President, this amendment will continue the efforts to reduce inventory levels in the Defense Department by prohibiting DOD procuring activities from obligating funds to purchase inventory items that would result in an on-hand inventory or excess of 2 years of operating stocks. The head of a procuring activity can waive this restriction for industrial base purposes or for national security reasons. This amendment has been cleared on both sides. I urge its adoption.

Mr. WARNER. We have no objection.

The PRESIDING OFFICER. Is there further debate on the amendment of the Senator from Michigan? If not, the question is on agreeing to the amendment.

The amendment (No. 1023) was agreed to.

Mr. NUNN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. WARNER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 1024

Mr. WARNER. Mr. President, I will send to the desk an amendment sponsored by Senator COHEN. It would amend the Employment Pay Act to require vendors who sell fish and seafood products to the Government be paid within the same time period—the act specifies for vendors of poultry, eggs, and meat products. It is my understanding that the amendment has been cleared upon both sides.

(Purpose: To amend section 3903 of title 31, United States Code, to require prompt payment by the United States for purchases of fish.)

Mr. WARNER. Mr. President, on behalf of Senator COHEN, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Virginia [Mr. WARNER], for Mr. COHEN, proposes an amendment numbered 1024.

Mr. WARNER. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

SECTION 1. PROMPT PAYMENT FOR PURCHASE OF FISH.

Section 3903(2) of title 31, United States Code, is amended by striking "provide" and inserting "or of fresh or frozen fish (as defined in section 204(3) of the Fish and Seafood Promotion Act of 1986 (16 U.S.C. 4003(3)), provide".

Mr. WARNER. Mr. President, I ask that the Senator from Virginia, Mr. Warner be added as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. NUNN. I ask that my name be added as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

The PRESIDING OFFICER. Is there any further debate on the amendment of the Senator from Maine? If not, the question is on agreeing to the amendment.

The amendment (No. 1024) was agreed to.

Mr. NUNN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. WARNER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 1025

Mr. NUNN. Mr. President, on behalf Senator MITCHELL and Senator COHEN, I send an amendment to the desk to improve the base-closure process, and I ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Georgia [Mr. NUNN], for Mr. MITCHELL (for himself and Mr.

COHEN.) proposes an amendment numbered 1025.

Mr. NUNN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 368, strike out lines 14-18 and insert the following in lieu thereof:

"(B)(1) 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.

"(2) 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."

On page 371, between lines 6 and 7, insert the following:

"(6) The Secretary of Defense shall prescribe regulations to ensure that any information provided to the Commission by a person described in paragraph (5)(B) shall, within 24 hours of the submission of such information to the Commission, be submitted to the Senate and the House of Representatives, and shall be made available to the Members of each such House in accordance with the rules of each such House."

BASE CLOSURE PROCESS IMPROVEMENTS

Mr. NUNN. Mr. President, the amendment would enhance the independence of the Commission's staff by limiting the role of Department of Defense detailees to the Commission, and would improve congressional oversight by requiring DOD to promptly forward to Congress all documents provided by the Department to the Commission.

I understand that this amendment has been cleared on both sides.

I urge the adoption of the amendment.

AMENDMENT NO. 1026

(Purpose: To revise the restrictions relating to interim staff of the Defense Base Closure and Realignment Commission.)

Mr. NUNN. Mr. President, I send an amendment to the desk on behalf of myself, Senator DIXON, and Senator WARNER, and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Georgia (Mr. NUNN), for himself, Mr. DIXON, and Mr. WARNER, proposes an amendment numbered 1026.

Mr. WARNER. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 369, strike out line 8 and all that follows through "(D)" on line 16, and insert in lieu thereof the following:

"(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; and

"(C)

THE BASE CLOSURE COMMISSION STAFF

Mr. NUNN. Mr. President, this amendment alters a provision in the bill as reported by permitting the De-

fense Base Closure Commission to retain a core staff of no more than 15 employees, of whom no more than 5 would be analysts. This provision, recommended by the Commission Chairman will permit the Commission to file a follow-on report, respond to ongoing administrative matters, develop an experienced, independent analytical capability, and prepare for the appointment of a new commission.

This provision has been cleared on both sides, and I urge its adoption.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 1026) was agreed to.

Mr. NUNN. I move to reconsider the vote.

Mr. WARNER. I move to lay that motion on the table.

The motion to lay on the table was agreed to. END

AMENDMENT NO. 1027

Mr. WARNER. Mr. President, I send to the desk an amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Virginia (Mr. WARNER), for Mr. LOTT, proposes an amendment numbered 1027.

Mr. WARNER. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of Title XI, General Provisions, insert the following:

"SEC. 11 . REPORT ON SHIPBUILDING EXPORT LICENSE.

"Not later than four months after enactment of this bill, the Secretary of the Navy shall report to the Committees on Armed Services of the Senate and the House of Representatives on the criteria to be used in evaluating requests by corporations in the United States for a license to import components of submarines designed and manufactured abroad for further assembly and re-export."

REPORT ON DIESEL SUBMARINE EXPORTS

Mr. WARNER. Mr. President, this is an amendment requiring the Navy to report on the criteria it intends to use in evaluating requests by corporations to import submarine components and assemble these components for export. This provision requires only a report and does not prejudice the merits of any such request.

I understand that the amendment has been cleared on both sides, and I urge the adoption of the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amended (No. 1027) was agreed to.

Mr. WARNER. Mr. President, I move to reconsider the vote.

Mr. NUNN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 1028

Mr. WARNER. Mr. President, on behalf of Senator THURMOND and myself, I send an amendment to the desk, which is also cosponsored by 17 other Senators, and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Virginia (Mr. WARNER), for Mr. THURMOND, (for himself, Mr. WARNER, Mr. NUNN, Mr. HOLLINGS, Mr. ROBB, Mr. BENTSEN, Mr. LIEBERMAN, Mr. REID, Mr. BRYAN, Mr. FOWLER, Mr. DOLE, Mr. COATS, Mr. SIMPSON, Mr. DANFORTH, Mr. GRAMM, Mr. JEFFORDS, Mr. LEAHY, and Mr. SHELBY) proposes an amendment numbered 1028.

Mr. WARNER. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

SEC. . COMMENDATION OF THE MILITARY COLLEGES FOR THEIR CONTRIBUTIONS TO TRAINING THE CITIZEN-SOLDIERS.

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

(1) The number of essential military colleges—institutions that the Department of Defense has recognized as constituting a special aspect of American higher education—has decreased from 11 institutions in 1914 to only 4 today: Norwich University, founded in 1819; Virginia Military Institute, established in 1839; The Citadel, The Military College of South Carolina, chartered in 1842; and North Georgia College, which opened in 1873;

(2) The hallmark of these institutions has been their dedication to the principle of the citizen-soldier, and in this regard are joined in spirit and devotion by the Cadet Corps at Texas A&M University, and Virginia Polytechnic Institute and State University;

(3) Citizen-soldiers are educated, trained, and inspired to become productive members of society in any calling, but are also prepared to serve their country in a military role during times of war or national peril; and

(4) These citizen-soldiers have accepted as their duty an obligation to serve their country in every instance of war since the Mexican War, and have without fail or hesitation answered the call to arms—most recently with service in Southwest Asia as part of Operation Desert Storm: now, therefore, be it

(b) RECOGNITION AND COMMENDATION.—In light of the findings in subsection (a), the Congress recognizes and commends military colleges for the unique contributions they have made and continue to make, and urges citizens of the United States to support the concept of the citizen-soldier to which these colleges are dedicated.

COMMENDATION OF MILITARY COLLEGES

Mr. WARNER. Mr. President, this amendment recognizes and commends military colleges for the unique contributions they have made and continue to make. These colleges are Norwich, Virginia Military Institute, the Citadel, and North Georgia College. Although no longer military schools, Texas A&M and Virginia Polytechnic Institute and State University are also recognized. The amendment urges the

distinguished chairman of the Armed Services Committee that I am ready to offer the amendment. We do not have a time agreement.

I think it is appropriate under the chairman's suggestion that if a time agreement is possible under the Wirth amendment, we would be willing to set this aside to take care of that matter under the time agreement and debate this until such time agreement on the other matter is reached, if I could offer it at this time.

Mr. NUNN. Mr. President, will the Senators prefer to have a long time agreement so we at least have some bounds on it and we could go ahead and propound that and we vote tomorrow and know that. If so, what is the time agreement? Would 3 hours accommodate both sides, evenly divided?

Mr. BREAUX. I would say from this Member's perspective that is more than an adequate amount of time. I think we can do it in less time than that.

Mr. GLENN. Mr. President, I think we can probably do it in less time than that, too. I am trying to protect other people indicating an interest to speak on it. I need 25 or 30 minutes max for myself. I would like to protect others. So I would like an hour and a half on this side.

Mr. JOHNSTON. Mr. President, I think we would have no problem at all in having the same amount of time the distinguished Senator from Ohio has, and if he is willing to shorten his time I am sure we would be willing to shorten ourselves to whatever length he says.

Mr. LAUTENBERG. Mr. President, reserving the right to object, I wonder whether the discussion we were having has been completed. I probably will not object. But I would just like to know that.

Mr. NUNN. We have not propounded a unanimous-consent request. I am waiting for the majority leader. I was inquiring. There is not pending a unanimous-consent request. I suggest the Senator get started on the debate, with the understanding I will not propound this as a request, with the understanding if we can work out a time agreement on the Wirth amendment that he offers we would be willing to set those aside.

AMENDMENT NO. 1034

(Purpose: To provide for the conveyance of closed military installations to the neighboring communities in certain cases)

Mr. BREAUX. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Louisiana [Mr. BREAUX], for himself, Mr. ROTH, Mr. JOHNSTON, Mr. DECONCINI, and Mr. CONRAD, proposes an amendment numbered 1034.

Mr. BREAUX. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 378, between lines 3 and 4, insert the following:

SEC. 2304. CONVEYANCE OF CLOSED BASES TO NEIGHBORING COMMUNITIES.

(a) Findings and Purposes.

(1) The Congress finds that—

(A) The Department of Defense has been directed to reduce the size and cost of the military and this can only be accomplished by closing military installations;

(B) A military installation is a part of the infrastructure of the community in which it is located and there is a long standing symbiotic relationship between a military installation and the community;

(C) The people in an impacted community have made substantial, long term investments of time, training, and wealth to support the military installations;

(D) The loss to an impacted community when a military installation is closed may be substantial and in such cases the Congress wishes to mitigate the damage to the impacted community;

(E) An impacted community knows best the needs of the community and the best way to use available resources to meet these needs consistent with existing national priorities; and

(F) Unfettered ownership of the real property associated with a closed military installation at the earliest possible time can partially offset the loss to a community which results when a military installation is closed.

(2) Therefore, it is the purpose of this section—

(A) To benefit communities impacted significantly when a military installation located in such communities is closed by authorizing the real and excess-related personal property on which the military installations are located to be conveyed to the impacted community as soon as possible after a decision to close the military installation is made but no later than 180 days after closure; and

(B) To provide significantly impacted communities a resource which will aid in mitigating the loss incurred by the community following a decision to close a military installation and which may be used by the impacted community, as the community deems appropriate, for industrial, commercial, residential, recreational, or public uses.

(b) IN GENERAL.—(1) Notwithstanding any other provision of law, the Secretary of Defense shall convey to an eligible political subdivision or subdivisions or State all right, title, and interest of the United States in the military installation closed pursuant to a base closure law in accordance with this section and the Comprehensive Environmental Response, Compensation, and Liability Act and the Solid Waste Disposal Act as determined by the Administrator of the Environmental Protection Agency.

(2) Even if the conditions set forth in paragraph (1) have been satisfied, the Secretary shall not convey such installation if the Secretary determines that the community or communities in the area of the real property to be conveyed are not experiencing or will not experience a significant adverse economic impact as a result of the closure of that military installation.

(c) DETERMINATIONS.—(1) The Secretary must make the determination referred to in subsection (b) in the case of a military installation as soon as practicable after the installation has been identified for closure, but in any event not later than the date on which the installation is closed.

(2) In determining whether a community is experiencing or will experience a significant adverse economic impact as a result of the closure of a military installation, the Secretary shall consider such objective evidence as the following:

(A) Declining real estate values.

(B) Increasing unemployment.

(C) Loss of revenue to the State and the community.

(D) Increasing rate of business failures.

(E) Significant decreases in total personal income.

(d) ADVANCE NOTICE TO ELIGIBLE STATES AND POLITICAL SUBDIVISIONS.—As soon as practicable after a military installation has been identified for closure, but in any event not later than the date on which the installation is closed, the Secretary shall transmit to the appropriate political subdivision, communities, counties and State to which property at such installation may be conveyed pursuant to this section advance notification of the Secretary's intention to make a conveyance of that property.

(e) ELIGIBLE STATES AND POLITICAL SUBDIVISIONS.—Property at a military installation that is to be conveyed pursuant to the requirement in subsection (b) shall be conveyed to a political subdivision or subdivisions or State in the following order of priority:

(1) To a political subdivision of a State that is designated in State law to receive the conveyance of such property and accepts the conveyance.

(2) If there is no political subdivision that satisfies the criteria in paragraph (1), then to the State in which the property is located if the law of that State designates the State to receive the conveyance of such property and the State accepts the conveyance.

(3) In the case of any real property for which neither a State nor a political subdivision of a State satisfies the criteria in paragraph (1) or (2), then to one or more political subdivisions of a state which the Secretary determines, after consultation with appropriate local officials, would best serve the interests of the residents of such subdivision or subdivisions and of the State in which the property is located, providing such subdivision or subdivisions accept such conveyance.

(4) In the case of any real property for which no subdivision or subdivisions or State accept such conveyance, then the Secretary shall offer the property to other departments and agencies of the Federal government.

(f) PROPERTY TO BE CONVEYED.—In addition to the conveyance of real property to a community or State pursuant to this section, the Secretary shall convey any related personal property that the Secretary determines is appropriate for use by the recipient in connection with the recipient's use of the real property.

(g) CONVEYANCE DEADLINE.—Except as provided in subsection (h), all property to be conveyed pursuant to this section in connection with the closure of a military installation shall be conveyed within 180 days after the date on which the installation is closed.

(h) PROPERTY NOT SUITABLE FOR CONVEYANCE.—The Secretary shall sever from the real property of a closed military installation to be conveyed pursuant to subsection (b) that real property which is not suitable for conveyance and make such transfers over a period longer than that which would otherwise be permitted under subsection (g). Property is not suitable for conveyance under the following conditions:

(1) When the political subdivision or state will not accept conveyance of a part of the

real property of a closed military installation; or

(2) If the administrator of the Environmental Protection Agency determines that such conveyance does not comply with the requirements of either the Comprehensive Environmental Response Compensation and Liability Act of 1980 or the Solid Waste Disposal Act; or

(3) When necessary to ensure completion of environmental restoration and mitigation projects.

(l) **CONSIDERATION NOT TO BE REQUIRED.**—No consideration may be required for a conveyance of property pursuant to this section.

(j) **WAIVER AUTHORITY.**—(1) Subject to paragraph (2), the President may waive in whole or in part the requirement to convey property at a military installation under subsection (b) if the President—

(A) determines that the continuation of the United States interest in such property—

(i) is vital to national security interests; or

(ii) the value of the base is so high that a conveyance to the political subdivision or state would constitute an undue windfall to the community and would not be necessary for the economic recovery of the region, provided that the number of waivers exercised under this Act do not exceed a cumulative total of five military installations for each package of closures approved by a commission under the Base Closure law. Provided further, a waiver in part shall not count against this limit if the value of the property reserved does not exceed 25% of the total value of such installation or if the appropriate political subdivision or state agrees with the reservation; and

(B) transmits to the Committees on Armed Services of the Senate and the House of Representatives a certification of such determinations together with the reasons for such determinations.

(2) A determination and certification in the case of the closure of any military installation shall be effective only if made before the earlier of—

(A) the date on which the installation is closed; or

(B) December 31 of the year following the later of the year in which the closure of that installation is approved by the President.

(3) The President may extend the deadline for making a determination and certification under paragraph (2) for not more than two successive periods of 90 days by transmitting to the congressional defense committees a notification of the extension before the end of the deadline or extended deadline, as the case may be.

(4) The President may withdraw a waiver under paragraph (1) in the case of any military installation. Not later than 180 days after the withdrawal of the waiver, the Secretary of Defense shall make the conveyance required by subsection (a) in accordance with this section.

(k) **Continuing Responsibility of the Department of Defense.**—Prior to and after any conveyance of real property of a closed military installation pursuant to this section, the Secretary of Defense in consultation with the political subdivision or state shall be responsible for the following matters:

(i) To provide economic adjustment and community planning assistance including assistance in conducting public hearings to decide the appropriate use of a closed military installation to communities near the closed military installation until such time as the economic stability of such communities is achieved, as determined by the Secretary.

(ii) To comply with the Comprehensive Environmental Restoration Compensation Liability Act of 1980 and the Solid Waste Disposal Act in consultation with the Administrator of the Environmental Protection Agency.

(iii) To continue to carry out environmental restoration and mitigation activities relating to uses made of such installation before closure.

(l) **SOURCES OF FUNDING.**—The Secretary may expend any funds in the Base Closure Account to carry out the responsibilities referred to in subsection (k) and the Secretary shall notify the congressional defense committees in advance of the obligation of funds for such purpose.

(m) **IMPROVEMENT OF PROPERTY PENDING CONVEYANCE.**—(1) Notwithstanding any other provision of law, the Secretary of Defense and the head of any other department or agency of the Federal Government may continue, on and after the applicable date referred to in paragraph (2), to obligate funds (to the extent available) for making improvements to the property that has not been conveyed that will facilitate the conveyance of the property and are consistent with the use to be made of the property by the recipient of the conveyance.

(2) Paragraph (1) applies in the case of property at a military installation on and after the later of the date on which the closure of that installation is approved by the President.

(n) **DEFINITIONS.**—In this section:

(1) The term "military installation" has the meaning given such term in section 2687(e)(1) of title 10, United States Code.

(2) The term "base closure law" means the following:

(A) The Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 102-510; 104 Stat. 1808; 10 U.S.C. 2687 note).

(B) Title II of the Defense Authorization Amendments and Base Closure and Realignment Act (Public Law 100-526; 10 U.S.C. 2687 note).

(C) Section 2687 of title 10, United States Code.

(3) The term "base closure account" means the following:

(A) The Department of Defense Base Closure Account established by section 207(a) of the Defense Authorization Amendments and Base Closure and Realignment Act (Public Law 100-526; 10 U.S.C. 2687 note).

(B) The Department of Defense Base Closure Account 1990 established by section 2906 of the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 102-510; 104 Stat. 1815; 10 U.S.C. 2687 note).

In section 2(b), amend the table of contents by inserting after the item relating to section 2803 the following new item:

Sec. 2804. Conveyance of closed bases to neighboring communities.

Mr. BREAUX. Mr. President, just briefly, because I have my colleagues who want to be heard on this, I would like to outline what we are attempting to do here.

Mr. President, we all know that the House, I think yesterday, agreed to the proposal of the President of the United States to close 35 military installations in the United States and also to realign something like 43 more. For those States—and there are about 23 or more States that are directly affected by these base closures—there is a great deal of pain and suffering that they are going to experience in the

very near future. For these 23-plus States that are faced with these 35 military bases that are going to be closed, the future is very uncertain. It is like an economic atomic bomb has been dropped on these communities as they worry about the future, their jobs, their families, and what the future in fact is going to hold.

Mr. President, under the current law the way the military property is disposed of once it is declared surplus under this commission's procedures, that military installation is first of all transferred or offered to any other Federal department, any other Federal agency in the Government that thinks they may have a use for this property and could come in and get that property from the Department of Defense.

Mr. President, only after every single Federal agency says we do not want it or we do not need it, then under the current law is any public body, State and local governments, allowed to come in and make a request and show a need and a use for that property.

Mr. President, the bill that is now at the desk does something very simple. Senator ROTH offered a bill in the Senate a number of weeks ago. I co-sponsored it. Senator JOHNSTON has been working on an approach. I think what we have here tonight is a combination of those efforts.

What we simply do is to say that those who suffer the most are going to be helped the most by their Federal Government. Those citizens who are going to be the most greatly adversely affected, those citizens who are going to lose their jobs are going to be put in the first tier, not the last tier, as to who is going to be helped.

This amendment, Mr. President, simply says that, in considering how that property is going to be handled, the local public bodies are going to be put at first priority, and let them have the first opportunity to use those facilities, to use that property, for the best benefit of that local community and that local government.

We have an obligation to help those who we hurt the most, and certainly it is not other departments in the Federal Government. Certainly, it is not the Department of Commerce or the Department of the Interior or the Department of the Treasury, or any other Federal installation. First priority is to help those who indeed are offended and hurt the most by this transfer.

So, Mr. President, this amendment simply reverses the order, allows the local communities, counties, and States to form a coalition to come in and make the request for use of those surplus Federal properties. And I think that is very clear. I know in our own State of Louisiana, we have an installation that is going to be closed. Ninety-five percent of the property the Federal Government owns right

now was donated by the local government. It was donated for an Air Force base. And now, under the current law, without this amendment, the Federal Government is going to say: We do not need it for an Air Force base anymore, but we do not care if that is why you donated it to us; we are going to keep it, and we are going to find another use for it.

Instead of saying to those citizens that donated that property in the first place, who gave it free of charge to the Federal Government to be used as an Air Force base, instead of saying, "You are entitled to have it back now that we do not need it;" no, the current law would say: No, we are going to offer it to some other Department of the Federal Government.

Mr. President, that is wrong. Our amendment that is at the desk tonight corrects that inequity, and it does it in a way that I think is balanced, and one that makes a great deal of sense. I will have other things to say at a later date on the amendment, but I wanted to outline it at this time.

I yield the floor.

Mr. JOHNSTON. Mr. President, the substance of this amendment is to require, with respect to those bases that are closed, that there will be an obligation to the Department of Defense to convey the property of that base to the local community as soon as possible, but in no event later than the date of actual closure.

We require, Mr. President, as a trigger for the entitlement to receive that land, that there be an adverse economic impact on behalf of that community. The adverse economic impact in most instances is perfectly plain. And we determine what that significant adverse economic impact, which is the word of art that is used in this amendment, we define that as being such things as real estate values going down, unemployment going up, lost revenues to the local communities, increased bankruptcies, personal income going down. In most instances, it is perfectly obvious that the impact on the local communities will be dire, direct, substantial, and overwhelming.

For example, in central Louisiana, where England Air Force Base is located, which is due to be closed, there is a loss of 12,000 jobs; there is a loss of \$228 million in sales; there is a loss of over \$257 million in household income; there is a loss of State and local revenue, which is overwhelming to the local businesses; and there are bankruptcies wholesale.

In any event, Mr. President, we require as a trigger to receive this property that the local community be adversely impacted. We require that the President make findings as to that, if their really is no adverse impact, then his findings will so state and will state the facts of that.

We next deal with the question of to whom the property is to be conveyed. We provide that the first order of priority is that where State law design-

nates a local subdivision—it may be a city; it may be a town; it may be a county; it may be a newly created local subdivision, as is the case in Louisiana—the designated party, under State law, would be the one to receive the property.

If there is no designated party under State law, then the second order of priority is the State, and if it is not appropriate for the State to determine, then the Department of Defense shall determine among the various local subdivisions which subdivision or which combination of subdivisions, including the State, is appropriate.

We provide, Mr. President, that the conveyance must be made within 180 days of closure. We had found that in many instances—for example, the distinguished Senator from Alabama, Mr. HEFLIN, was telling me that a base in his State has been closed for over a decade, and they are still trying to get the property and they cannot get it. It is tied up, I do not know, in redtape. It is tied up in, perhaps, appraisals. But in any event, they cannot get it. We require that that conveyance be made within 180 days of closure.

We also provide that, in certain instances, conveyance would not be suitable. For example, where the local community is not willing to accept the property, or where there are environmental problems, or where there must be environmental restoration.

We do provide for a waiver. And this is very important. It is a Presidential waiver. The President may waive the requirements of making the conveyance where, first, there is an instance of national security; and second, where the value of the property is such that a conveyance of that property to the local community would constitute a windfall on behalf of the community, and would also not be necessary in order to have economic recovery for that community.

So, in those instances that you have—and there are a few that we are acquainted with—where the property is extremely valuable, then the President can make a finding simply on the basis of the high value of the property.

We also provide, Mr. President, that there may be a waiver in part. That is, the President may say that, for example, well, we will give two-thirds of the base back to the local community, but one third must be reserved for, for example, a Federal purpose, such as the National Guard using the runway, or the National Guard using the armory, or any kind of Federal use that would require a partial Federal use, partial national security use.

We do provide, Mr. President—and this is a very important exception—we provide that the total number of waivers made by the President with respect to any group of closures—by a group of closures, of course, we mean those that were just announced recently, or the second wave would be another separate group—that with respect to a

group of closures, the President may not use this waiver authority for more than five bases.

We provide, however, that partial waivers do not count against the five limit. So that, for example, if the President said in England Air Force Base that we need the runway because we want to put an air guard unit in England Air Force Base, that they could reserve either the runway or the use of the runway, or the hangar or the use of the hangar, and thereby not count against the five limit, provided the value of the reserved property does not exceed 25 percent of the value of the base.

So that the President has unfettered authority on economic grounds, as I pointed out, as well as on national security grounds, to waive the requirement of having to convey these bases, provided that he can use it with only five bases, for the total base; or he can use it in addition to that, for partial waivers, provided that the reservation by the President does not exceed 25 percent of the value of the base.

We also provide, Mr. President, that the President must make clear—we set dates in this amendment for the President to make his findings and to exercise his waiver, and that if he fails to make the waiver in the time specified, then it is final.

The reason for that, and the whole thrust of this amendment, is to make it clear that this property must be conveyed, must be conveyed promptly—except in those cases where the authority is reserved. But, where that authority is reserved, the President, in effect, must make up his mind, make up his mind promptly, state the reasons, so the local community can then get on with the business of either planning for the use of that base or attempting to, for example, attract industry in to use the base, which we hope to do at England Air Force Base.

I hope this amendment will be enthusiastically accepted. To say that our local communities are adversely impacted is an understatement. We think it was outrageous what was done in central Louisiana with England Air Force Base. This would be one way to help us begin to plan to provide against the terrible impact that that has created.

Mr. WARNER. Mr. President, will the Senator entertain some questions?

Mr. JOHNSTON. Of course.

Mr. WARNER. I must say this is a fairly voluminous piece of legislation to propose at this hour on this bill, and this manager has had but a few minutes to examine it. But I must say at first glance, I think it is not a wise piece of legislation, but I will await the response of the Senator to several specific questions.

First, the Secretary is to determine (A), (B), (C), (D), and (E). That listing does not restrict him to the various factors that he can take into consider-

ation. I presume it merely recites suggestions; is that correct?

Mr. JOHNSTON. What page is the Senator on?

Mr. WARNER. That would be page 4. "The Secretary shall consider such objective evidence as the following." He is not limited to those factors?

Mr. JOHNSTON. That is correct.

Mr. WARNER. Down to "Eligible States and Political Subdivisions." "To a political subdivision of a State that is designated in State law to receive the conveyance of such property and accepts the conveyance." How many of the 50 States now have on the books a law that would meet this provision?

Mr. JOHNSTON. Well, I do not know. I know the State of Louisiana does. Where the State legislature has acted, and the State of Louisiana Legislature acted with respect to England Air Force Base, to form a special subdivision that is composed of representatives from the City of Alexandria and representatives from Rapides parish, and where the State has acted and thought about this problem, then they ought to be the one to do it.

Where they have not, then the conveyance should be to the State if the law of the State designates the State to receive the conveyance of such property and the State accepts conveyance.

Mr. WARNER. Yes, Mr. President, I have tracked that down. But what concerns me is if there are a great many States that do not have laws that would take care of No. 1, we could end up with a situation where States would be receiving property of significant value, rather than the general taxpayer.

Mr. JOHNSTON. It says, "then to the State in which the property is located if the law of that State designates the State to receive the conveyance of such property. . . ."

Mr. WARNER. Well, I am certain most States have an omnibus statute saying they can take property, I suppose.

Mr. JOHNSTON. It does not say they can, it says if they designate the State as the one to receive the property.

Mr. WARNER. My point being there may be some communities that are deserving of receiving these properties, and could meet (A), (B), (C), (D), and (E), but there is no State law by which those communities can receive the property and the property simply leapfrogs a deserving community and goes into the State treasury.

Mr. JOHNSTON. If the Senator will read on page 5, No. 3, where the State law does not provide for someone to receive it, "then to one or more political subdivisions of the State which the Secretary determines"—

Mr. WARNER. That is the Secretary of Defense?

Mr. JOHNSTON. Right. "After consultation with appropriate local officials, would best serve the interests of

the residents of such subdivision or subdivisions of the State. * * *

Mr. WARNER. Let us stop right there. I rather imagine there would be a number of localities within the State that would be very anxious to get a valued piece of Federal property and he would be thrust into some stiff competition, would he not?

Mr. JOHNSTON. Well, the idea here is to encourage the State to make its determination. And if it does not, then the Secretary of Defense should make that. Somebody has to decide.

Mr. WARNER. Mr. President, I do not doubt the Senators from Louisiana have a serious problem with respect to a small community somewhere in their State. But what we are doing is enacting—that is, looking at a law, hopefully it will not be enacted—that would apply to all 50 States, all base closures, deprive the Federal taxpayers of some, I think, estimated here 3.5 billion dollars' worth of Federal property.

I think out of a care for, perhaps, a needy situation, we are creating a myriad of problems all across the country.

For example, let us say there is a State law that allows a political subdivision of a State that is designated to receive it. Suppose that is a small town, consisting of two bars and a dance hall. Does that get a whole Air Force base that happens to be in the political subdivision?

Mr. JOHNSTON. First of all, Mr. President, the Senator from Virginia, I think, misstated what this is. It is not a community that is eligible. It is the community or subdivision which is designated by State law to receive it.

Mr. WARNER. Then I must confess not to be able to get a grasp of this. Does the Senator mean there is State law in my State now, I have no knowledge of it, that says each of the communities would get each of the military institutions should they be closed?

Mr. JOHNSTON. I am saying according to this amendment it would be up to the State legislature to determine what is the appropriate subdivision or combination of subdivisions, or if it is the State which would be designated to receive the property.

Mr. WARNER. Then what my colleague is suggesting, for each closing, a legislature has to pass a specific law and make a finding?

Mr. JOHNSTON. No. If the Senator will listen—

Mr. WARNER. I am trying to listen and trying to understand.

Mr. JOHNSTON. All right. With respect to each base that is closed, the State legislature would have the option to designate a political subdivision or group of subdivisions or, indeed, create a subdivision to receive the property or designate the State as the appropriate subdivision.

Mr. WARNER. May I stop my colleague there? Is there any nexus between the location of the base and the likelihood of the subdivisions receiving

this? They would have to be ones that suffered a declining real estate value, increasing unemployment?

Mr. JOHNSTON. I would say to my dear friend, the legislature of the State is not going to designate, as the Senator says, some little Podunk town 50 miles away that has a bar and 16 residents. State legislatures—this is part of our State. I am sure in Virginia, the legislature of the State of my colleague, in the case of a closed base would not designate some foreign, disparate town that has no connection with the military base. Surely the Senator from Virginia, a strong State's righter, graduate of Washington and Lee, would not think the legislature of Virginia would do such a foolish thing?

Mr. WARNER. Mr. President, I do not wish to denigrate any State legislature, but I certainly have been witness to lot of crazy things done by State legislatures all over America.

Mr. JOHNSTON. It has never been done in Louisiana.

Mr. WARNER. Somehow it seems to me the political history of Louisiana has been getting a great deal of consideration nationwide, worldwide, in the last 2 years.

Mr. BREAU. Will my colleague from Louisiana yield? If I could have the attention of the Senator from Virginia, maybe I can help him. Under current law, this is already done. Under current law when a military base is closed right now, the first option is the Federal Government, but if the Federal Government does not want it, then it goes to a public body as worked out by the State.

I would say to the Senator from Virginia, we have had a number of bases that have in fact been closed under the old laws that have gone ultimately to the local government, and it is a very simple thing the local country and State works out as to how it is going to be handled. Our State of Louisiana has already formed a county and State commission consisting of the local government and county and State, which would be a commission which would operate it if they were able to get it.

That is the current law right now. So we are not envisioning any change in how the local people who acquire title would be handling it. What we are trying to do is insist those who are hurt the most will have first priority of getting it. It is not a complicated process.

Mr. WARNER. Mr. President, I accept the Senator's explanation. I do have a feeling, however, that there is a close tailor between this legislation and what will soon exist by way of laws in the State of Louisiana. This is a hand-in-glove situation. I am concerned about other jurisdictions.

I see on the floor the distinguished Senator from Ohio. Maybe he has a far better grasp on this situation than the Senator from Virginia.

Mr. JOHNSTON. If the Senator will yield.

Mr. WARNER. I yield the floor.

Mr. JOHNSTON. I just tell my friend from Virginia, there may be some objections to this. I believe I can assure him that the designation in State law of a political subdivision to receive it is surely not a reason to oppose this amendment.

The PRESIDING OFFICER (Mr. DASCHLE.) The Senator from Pennsylvania.

Mr. SPECTER. I thank the Chair. Mr. President, I support the pending amendment and after listening to the colloquy between the distinguished Senator from Virginia and the distinguished Senator from Louisiana, I would like to raise my voice in support of what the Senator from Louisiana has had to say.

I believe that the base closures are going to cause tremendous impact in many communities across the country, especially in the State of Pennsylvania. I believe legislation of this type is very appropriate to try to give some relief to enable the localities to acquire this property and provide an economic base for job opportunities.

Earlier this evening, the distinguished Senator from Maine addressed the body on a related matter.

Mr. President, earlier this evening Senator COHEN of Maine spoke about changes in the pending legislation as a result of problems and inappropriate action on the Base Closing Commission. As he spoke, a number of the issues which had troubled the State of Maine were duplicated in the Commonwealth of Pennsylvania with respect to the Philadelphia Navy Yard and the Naval Air Development Center in Warminster, PA.

With respect to the navy yard, not only was there stonewalling, a characterization used by the Senator from Maine earlier this evening, but there was an actual concealment of relevant documents with memoranda from Admiral Clamon and Admiral Hekman urging the retention of the navy yard, concealed from the members. Then Under Secretary of the Navy Howard had urged Admiral Hekman not to testify before the Base Closing Commission.

Those matters are of such a serious nature that they are now part of litigation pending in the United States District Court for the Eastern District of Pennsylvania.

The Naval Air Development Center at Warminster, PA, was acted upon by the Base Closing Commission even before the Advisory Commission on Laboratories reacted. The statute provides for that action in September. The Base Closing Commission took action in July. Hardly sensible.

So, in the face of what had happened, there will be opportunity later for a fuller exposition on the failures of the Base Closing Commission on the resolution for disapproval, which I filed on July 10 shortly after the

President approved the Base Closing Commission, that the kind of legislation offered this evening to give the localities an opportunity for industrial development for job opportunities is most appropriate.

I have an amendment which has been filed, Mr. President, which would call for extra job training for those localities as well. But I think this is a very important amendment. I urge my colleagues to support it. I thank my colleague from Ohio for yielding.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. GLENN. Mr. President, I rise to oppose the amendment before us. Let me put this in the proper perspective. This takes existing Federal law that has been working, and working well, for some 43 years. The law was passed in 1949, the Federal Property Administrative Services Act. For over 40 years, it has prescribed the way we dispose of Federal property, whether it is a military base or whether it is a building, or whatever it is.

Mr. President, it includes real estate, it includes whatever Federal property is to be disposed of. There is a regular procedure under the Act and the procedure that has worked well for over 40 years says when the Federal Government owns a piece of property, if it is going to dispose of that property, that it first canvasses other Federal agencies to see whether there is any other Federal agency that has a use for that property.

Mr. President, that makes a lot of sense. That makes sense because there may be another use and if we are about to buy property, about to spend taxpayers' money for a certain purpose, it is foolish to be selling one piece of property so you can turn right around and buy another or, giving the property away, as this would propose, so we then would be required to spend who knows how much money to buy similar property to do something else the Federal Government is interested in doing. So that is the first call—other Federal use.

Only when no other Federal use is determined do we then go to the States and say does the State want this property, and we give the States priority with respect to homeless use, with a few exceptions. If they do not want it, we give the counties priority, then local communities and then, if it still is not used by a Government entity or wanted by a Government entity, the Federal Government can sell it off on an individual sale, if someone will buy it.

Mr. President, this absolutely turns that procedure upside down, this procedure that has worked for over 40 years. It says first we will just give property to the local community, and if there is not anybody there suitable to take it, the State will designate someone to take it. Does this make any sense? I think it would make a great deal more sense if my distinguished colleague from Louisiana was

saying that we provide for expedited procedures to run through this so that we do not have the normal months and months of delay, because I think it would be absolutely ridiculous for the Federal Government to give up this property on such a scale to just give it up and upset the procedure that has worked well for 40 years through many base closures.

As an example, the DOD estimates it could realize, some \$1.8 billion from 1988 Federal base closure sales.

Mr. President, I appreciate what goes on around these bases. I have a major base in Ohio, Rickenbacker, in Columbus which is closing. Would I like to see somebody get a gift of that? Of course. I do not see how we do that, the people of other States, the people who paid for that property, developed that property and developed that base and then turn around and say we will give it to them after this whole thing is over and upset the usual procedure.

I realize there is a great deal of unhappiness about the way the base closure action occurred and there are still people trying to take legislative action to prevent some of those things from occurring. Mr. President, there will always be concern when a base closes. We also have to realize that those States and communities reap years and years of benefit by that base being in that particular area, also.

Mr. President, the amendment would essentially turn over at no cost entire bases to local communities without first going through the procedure that I mentioned.

In fact, it just reverses the whole thing. It says you give it to the local communities first. The Feds would be out of it completely except—now except—and I know the distinguished majority leader has some concerns about this, too. As I see it, this would circumvent the CERCLA legislation, also. I do not see how it could help but do that. Because what it does, it says that on these bases where there are hot spots or toxic problems or whatever the difficulty is there, somehow we keep that under Federal control. We address that separately. And it is a rare base these days—perhaps England Air Force base in Louisiana does not have any toxic problems, but I can guarantee my friend from Louisiana at other places around the country, most of these bases do have some sort of environmental problem for which the Federal Government is still going to be responsible.

Mr. JOHNSTON. Will the Senator yield at that point?

Mr. GLENN. I will yield.

Mr. JOHNSTON. Does the Senator understand that under the amendment the Secretary has the obligation to convey the real property except as provided in subsection (h). Subsection (h) in turn defines property not suitable for conveyance, and such conditions are when it is necessary to comply with the requirements of

ECRECLA and the Solid Waste Disposal Act.

So that the idea here is that the Secretary of Defense now has the duty to clean the property up, and that it is not suitable for conveyance where you would have to comply with that law. So our intent here is to keep the responsibility on the Department of Defense to do the cleanup.

And I think the distinguished Senator from Maine would like for EPA to make that determination. I think we are working on an amendment to make that clear, that EPA makes the determination.

So it is not our desire at all to change either the responsibility for the cleanup or to convey property that is not certified by EPA as being clean. But that property which is not affected by the pollution or the cleanup would have to be conveyed. In other words, you have a dump out back on the edge of the air base. The rest of the property would have to be conveyed and that would not be conveyed but, rather, would remain the responsibility.

I thank the Senator for allowing me to interrupt.

Mr. GLENN. I understand.

Mr. President, I repeat what I started. The Federal Property and Administrative Services Act of 1949 set up a very specific procedure that has worked well for over 40 years. It has worked well through previous base closures and other property disposal, and I see no reason why we should upset this thing and turn it right smack on its head. We start now by giving whole bases to local communities, and then work up the ladder to States or to State designees to receive the property and in effect give up whatever money might be brought back into the Federal Treasury for other purposes if we go ahead and dispose of property as has been our custom in the past.

Mr. President, there are other possible uses and they include any and all other Federal uses. We have legislation already passed that allows homeless assistance programs to apply for property on these bases. We have Red Cross donation programs, drug rehabilitation programs, prisons, many other purposes that are written into Federal law that would be violated if we passed this amendment.

Mr. President, I do not believe that adequate rationale has been given for this drastic change, and it is a drastic change, in how we dispose of our current surplus property. I am especially concerned that this matter has not been fully studied or examined by the Congress.

The effect of the amendment will be, first, to waive the Federal Property and Administrative Services Act of 1949—that is the body of laws and regulations that has controlled property disposal for over 40 years—waives the Stewart McKinney Homeless Assistance Act. It denies DOD the chance for significant land sale proceeds in

the billions of dollars. We are just going to give that away. The proceeds from which could have been used for environmental restoration, closing bases, or whatever. In fact, as I said a moment ago, DOD estimates that it could realize \$1.8 billion from the sale of property associated with 1988 base closings.

If this amendment is agreed to, it requires the conveyance of even personal property. I suppose that would mean the equipment on the base, wheelbarrows, cots, blankets. I do not know exactly what would be included in that. It is not spelled out.

But I am, of course, very sensitive to and understand fully the concerns of many communities around the country about current economic difficulties, and there is an impact when a base closes. It does require a lot of readjustment. There is no denying that. Many cities and towns in my own State of Ohio are struggling under the burden of this recession. I also appreciate that base closings can prove greatly disruptive to a local community.

However, I do not think the solution to those problems is to gut the entire Federal property disposal procedure that we have operated under for so long, and more specifically to change the rules on base closure property disposal right in the middle of the game. In fact, I suspect that would only be counterproductive of the very goal we seek to achieve. What we are trying to do is save dollars. That is the overall purpose of this whole base closure episode we are going through, to save money, at the same time trying to recoup some of that back into the Federal Treasury.

As I read this particular amendment, too, there is no requirement that the community hold on to the property. The community could be designated to receive this property, and if they so desired they could sell it off. They could put it into subdivisions that could be used then by the local community to do anything they wanted.

Mr. President, these are valuable properties. These are not little fly-by-night pieces of real estate. These are major chunks of real estate. And we are just going to give them, apparently, with this amendment to the local communities to do as they see fit, or to sell off if they choose to do so.

Mr. JOHNSTON. Will the Senator yield at that point.

Mr. GLENN. Let me finish now. I yielded before. I thank the Senator. I will be done in just a moment.

So I am very sensitive to and I understand fully these concerns of the communities, but we are trying at the same time to get some money back into this Federal Treasury of ours, not give more of it away, which is in effect what we would be doing here.

Now, let me briefly outline the general reasons why I believe adopting this amendment would be a mistake in addition to what I have already men-

tioned. I believe my sentiment is shared by DOD in a letter to the chairman of the Senate Armed Services Committee concerning Senator ROTH's proposal, S. 1300, which I understand is virtually identical to this bill. I believe that is correct. It is a bill much like the one we are debating. I understand it is almost identical.

Here is DOD's General Counsel says, and I quote:

The Federal Property and Administrative Services Act of 1949, as amended, which stipulates the process and sequence of events to be followed when disposing of real property gives ample opportunity for local communities to acquire surplus property for redevelopment, subsequent to a base closure. The fact that Federal or State agencies have the opportunity to acquire the property or a portion thereof first, would not be a serious roadblock to the community since the redevelopment of a base is usually a cooperative effort undertaken in accordance with the reuse plan developed at the local level.

Mr. President, I agree entirely with this statement. Very sophisticated reuse plans and efforts are underway in communities across the country. These plans will require integration and coordination throughout the local community. To suddenly simply turn over these properties is unfair. It sends the completely wrong signal, and I think sets an extremely bad precedent.

Such a precedent flies directly in the face of what Congress intended in both the base closure laws and the McKinney Act.

Disposal of closed base property is governed by Section 204(b) of the Base Closure Act. The Secretary of Defense is delegated GSA's authority to utilize excess property and dispose of surplus property pursuant to the Federal Property Act, and grant approvals and make determinations under that surplus property act.

DOD is required to follow the Federal Property Act procedures and is expressly not permitted to "prescribe general policies and methods for using excess property or disposing of surplus property." In other words, DOD has to follow the normal GSA procedures. They are not permitted to go out on their own. Moreover, this authority is expressly limited by the McKinney Act, Title V, surplus property program over which the committee I chair has jurisdiction.

Mr. President, the law is unambiguous. Congress clearly and fully intended that the disposal of base closure property be handled in the same way it would be handled under longstanding and well-understood property act rules and procedures.

It cannot be disputed that the proposal before us would fundamentally alter this method of property disposal. It is a method that has operated well for over 40 years.

I mentioned earlier I am also concerned that other legitimate uses for such properties would be shunted com-

pletely aside in this manner. Let us say, let us suppose NIH or HHS or the Department of Agriculture needs some base closure property for some very important programs—research lab on AIDS, scientific laboratory, or one of an infinite number of other kinds of facilities.

Mr. President, could we have order in the Chamber? I am having trouble talking over the other conversations?

THE PRESIDING OFFICER. The Senate will be in order.

Mr. GLENN. As far as the process currently in place is concerned, the law explicitly defines specific steps that must be taken in order to screen excess and surplus property for such uses.

Under this amendment, no such opportunity would be provided. Right from the word go, these other very important Federal uses would not have a chance to even be considered, not to even be considered. We will end up with the debt-ridden Federal Government having to pay greatly to build or lease new facilities.

Mr. President, that is just not in the best interest of the American taxpayer, including those who reside in the affected local communities; I would submit even those who live within Louisiana.

As chairman of the Governmental Affairs Committee with jurisdiction over the McKinney homeless assistance surplus property program, I am especially concerned about the effect of this amendment on the priority which Congress has for years now attached to facilities to assist the homeless. The title V surplus property program under the McKinney Act requires the publication of surplus real property that is suitable and available for homeless use.

Already I would say some base closure property has been reported and published under this program. We had a hearing held before the Governmental Affairs Committee last year, and James Forsberg, of the Department of Housing and Urban Development, testified that:

We have received property already under the Base Closure Act. Back in late March and early April 1990 we published, I think, around 1500 to 2000 properties that were coming on line as a result of the base closures—and we have found around 80 percent of that property suitable since many of the properties were in fact family housing.

In a conversation with my staff this week, one HUD official characterized HUD's relationship with DOD as "very good." Not long ago apartment buildings were turned over to nonprofit homeless provided. These buildings were part of the base closure listing of the associated housing for a base in Virginia.

In addition, at New Hampshire's Pease Air Force Base, HUD in cooperation with DOD has worked at least to see that property there is channeled fully and properly through the McKinney procedures. I do not want

to see this progress stopped. That will be the effect of this amendment.

As I noted earlier, there are numerous other possible uses for base closure property which will effectively be barred by the approach of this amendment. Among these very important uses are such things that we have passed legislation on, on this floor, regarding prisons, drug rehab centers, public hospitals, homeless facilities, educational facilities, numerous others. Of course, if all of these possible public uses have been forestalled, DOD would otherwise have the opportunity to sell this property.

DOD estimates the revenues from the sale of 1988 base closure property alone already are \$1.8 billion. That is money which would be returned to directly offsetting the costs of base closure, especially the expected huge environmental cleanup costs that we discussed very briefly a little while ago.

Mr. President, apart from any of the other reasons I have cited, I am opposed to this amendment on the simple grounds that we have not examined it closely, have not looked at it, it came up suddenly, and about a day ago we first heard about it. I fully recognize that the base closures have caused an enormous problem for many hard-pressed communities and the economic viability issues are very compelling. However, such a radical proposal to change base closures property disposal—

Mr. ROTH. Will the Senator yield for a moment?

Mr. GLENN. For a moment, without losing my right to the floor.

Mr. ROTH. I would like to say to my distinguished chairman that on the Roth proposal, I did testify before the subcommittee of the Senate Arms committee. The legislation was referred to the Armed Services, and I also did appear before the base commission. So the matter has come up before. The chairman is correct. It did not go before our committee.

Mr. GLENN. Fine. I appreciate the comment. Thank you.

However, such a radical proposal to change base closure property disposal rules in the middle of the first round of closures should not be made without much further study and a real solid evidentiary record. If there have been hearings, they have been held on this subject only in a very brief way, and we have certainly not fully explored this issue after the base closure commission final list came out.

As far as I know, there have been no extended hearings before my committee, and I would certainly be glad to accommodate those if that was referred to my committee. I would be glad to hold those hearings jointly with the Armed Services Committee if necessary, and as early as possible.

Mr. President, in conclusion, I must oppose this amendment not just because it seeks a change which is undoubtedly negative with respect to base closure property, but also because

it is simply not fair. It is not fair to other potential users, both local and Federal. It is not fair because these other local or Federal entities would be shut out from even applying to use these facilities and to the communities where considerable efforts have been made already to plan for integrated reuse.

Once we begin down this path, Mr. President, where do we stop? Does this mean that all surplus property now, including foreclosed FHA property, RTC properties will forever now be free of any other possible legitimate uses? Will homeless uses simply be consigned to the lowest possible rung? I cannot support taking such precipitous action with such far-reaching implications in this manner.

Mr. President, I ask unanimous consent to have printed in the RECORD a letter from DOD on S. 1300, the Roth bill.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

GENERAL COUNSEL OF THE DEPARTMENT OF DEFENSE,

Washington, DC, July 30, 1991.

Hon. SAM NUNN,
Chairman, Committee on Armed Services,
U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN. This is in response to your request for the views of the Secretary of Defense on S. 1300, 102d Congress, a bill "To minimize the adverse effects on local communities caused by the closure of military installations."

S. 1300 is intended to benefit the local community impacted when an installation is closed by authorizing the installation's real property to be conveyed to that community as soon as possible after a decision is made to close the installation.

This legislation would significantly change the disposition process for real property associated with a closed military installation. It would require the Administrator of the General Services Administration (GSA) to offer to transfer title to the property to the local community concerned first, then to county, State, and finally Federal agencies. If the property is not requested by any of these agencies, it can then be sold to the highest bidder. The bill does not state specifically that such transfers would be without consideration but it is assumed that such is the case.

The Department of Defense opposes the legislation. The Federal Property and Administrative Services Act of 1949, as amended, which stipulates the process and sequence of events to be followed when disposing of real property, gives ample opportunity for local communities to acquire surplus property for redevelopment, subsequent to a base closure. The fact that Federal or State agencies have the opportunity to acquire the property or a portion thereof first, would not be a serious roadblock to the community since the redevelopment of the base is usually a cooperative effort undertaken in accordance with a reuse plan developed at the local level. It is highly unlikely that a Federal or State agency would acquire a portion of a base and use it for something that the local community strongly opposes. By not specifying that transfers of property will be at fair market value, it is assumed otherwise, that transfers will be without consideration. This subverts the intent of Congress in both base closure acts.

P.L. 100-526 and P.L. 101-510. The proceeds from the sale of base closure property are to be placed in the Base Closure Account and used to finance ongoing base closure costs. Without this infusion of funds, additional appropriations would be required which could delay closure schedules and realization of savings. The Department of Defense has invested considerable sums of money in these installations and it would not be in the taxpayers' best interest to give away these valuable assets. The legislation is also silent on other statutes that affect the disposal of real property, such as the Stewart B. McKinney Homeless Assistance Act. This Act requires that suitable and available surplus property be made available to providers of assistance to the homeless when such a request is made. S. 1300 also does nothing to resolve environmental problems. These issues take the longest to clear up and therefore slow down the disposal process.

The Office of Management and Budget advises that, from the standpoint of the Administration's program, there is no objection to the presentation of this report for the consideration of the Committee.

Sincerely,

TERRENCE O'DONNELL.

Mr. GLENN. I will quote from parts of that letter. It starts out:

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could delay closure schedules and realization of savings. The Department of Defense has invested considerable sums of money in these installations and it would not be in the taxpayers' best interest to give away these valuable assets. The legislation is also silent on other statutes that affect the disposal of real property, such as the Stewart B. McKinney Homeless Assistance Act. This Act requires that suitable and available surplus property be made available to providers of assistance to the homeless when such a request is made. S. 1300 also does nothing to resolve environmental problems. These issues take the longest to clear up and therefore slow down the disposal process.

The Office of Management and Budget advises that, from the standpoint of the Administration's program, there is no objection to the presentation of this report for the consideration of the Committee.

Mr. President, I summarize by saying, as I did when I started out, this literally takes our procedures for disposal of Federal property, as covered under the Federal Property and Administrative Services Act of 1949, and it exactly reverses the procedures. It stands the whole thing right on its head.

Instead of giving other Federal agencies first call on this property, then making States next in line, counties, local communities, and then individual sales, it starts by giving it to local communities with absolutely no restrictions, and it could not be sold off in other parcels. In other words, we give up all claim on this for any Federal use whatsoever.

Mr. President, I think this is wrong for the taxpayer, as spelled out in Terrence O'Donnell's letter that I just read into the RECORD. I think it is wrong from a taxpayer's standpoint and wrong for the use of this property, and I urge my colleagues to vote against this amendment.

I reserve the remainder of my time.

Mr. ROTH addressed the Chair.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. ROTH. Mr. President, exactly 1 year ago I came to this floor to introduce what I believed was a very important piece of legislation given the twilight of the cold war. The purpose of the legislation was to facilitate the closing of military bases deemed no longer necessary by the Department of Defense. My proposal was to make the closing of these bases easier by providing an opportunity to convert unneeded military installations into useful, even profitable community and State resources.

This would be done by reversing the order of priority for disposition of these bases, giving communities the first opportunity to take ownership of them, the State next and finally the Federal Government.

Mr. President, I was happy to hear the chairman of the Government Affairs Committee say that he would be willing to hold hearings on this important matter, along with the Armed Services Committee, because that is something I have been seeking for the last year or more.

As I mentioned, I did testify before the Armed Services Committee in 1990 on this matter, and before the Defense Base Closure and Realignment Commission in May of this year. I think it is worthwhile pointing out what the Defense Base Closure and Realignment Commission said in its 1991 report to the President.

On page 6-1 it noted that full economic recovery from base closure is dependent upon timely disposition of the facilities and land vacated by the services. The Secretary of Defense should do everything in his power to ensure a timely transfer of these valuable assets to the local community.

It goes on to say that "Reusing former military base property offers communities the best opportunity to rebuild their economies. The buildings and facilities can fill residential, commercial, and industrial needs and, thus, can replace jobs and income loss."

Air Force bases are especially marketable because of the national shortage of available hangar space.

Several communities that lost bases as a result of the 1988 Base Closing Commission have taken advantage of this opportunity for a quick economic turnaround. Attracting permanent tenants for the property once closure occurred is for economic recovery.

The Defense Base Closure and Realignment Commission continues to say "Successes can result from two things: early creation of an organization to plan and implement a suitable base reuse strategy; an aggressive marketing of base assets and available facilities."

It concludes this part, "that each community will have unique opportunities and constraints. The successful implication of any base reuse strategy hinges upon harnessing the energy and creativity present in the community."

For the first time in more than 50 years, we have the chance to safely but significantly cut military expenditures. The threat from abroad—especially from the Eastern bloc—has been diminished. Democracy is on the march throughout the world.

On the other hand, we are challenged by sincere and immediate needs here at home—needs that will require our best thinking and the most efficient use possible of our limited resources.

And frankly, I believe the Roth-Johnston-Breaux proposal to convert surplus military bases by providing them first to our communities—to use for their own economic well-being—is a prototype of the kinds of creative programs we need to meet our domestic agenda.

For example, Mr. President, many of the military installations that have been closed thus far have been successfully converted into economic boons for their respective communities. According to a recent Department

of Defense study, 75 closed installations are now industrial parks. Another 42 have been converted into commercial airports. And 57 sites have been turned into colleges and vocational schools that enroll 160,000 people. Jobs have been created that more than compensate for those lost by the Federal Government packing its bags and leaving the area.

What our legislation proposes is to facilitate in this conversion process, to assist our communities in this time of transition. What it does is quite simple. It provides the communities—on a completely voluntary basis—the first opportunity to assume control of the closing installations—once they have been cleaned by the Department of Defense and found to be environmentally safe. If the community decides it does not want the base, the State government is given the next opportunity.

And finally, if both local and State governments determine the base does not meet their needs—that the installation cannot be changed into a viable economic entity, education or service facility—ownership will remain with the Federal Government.

By giving communities the first opportunity to receive the land we will also mitigate some of the negatives associated with closing bases. It is easy for any compassionate person to understand how hard it is for communities to let defense installations shut down—installations that are sometimes the sole revenue sources for those communities. It's easy to understand why our colleagues so ardently come to the defense of bases targeted for closing in their States and districts.

The key to minimizing this resistance is in maximizing the future economic potential of these areas—to literally turn the community's weakness—its reliance on an exclusive source for its economic well-being—into its strength.

This can be done. For example, of 100 defense installations that were closed between 1961 and 1990, more than 158,000 civilian jobs have been created by State and local redevelopment—158,000 jobs that more than compensates for the 93,000 positions that were lost. This bill will not only encourage but increase the potential for similar results by facilitating and accelerating the transition period and providing for the community's long-term needs—creating a real and lasting economic foundation.

The communities that receive the lands and buildings will be able to use them for whatever purpose they deem necessary. Even if their desire is to sell the real estate, they can do so with a fair and adequate compensation to the Federal Government. Such compensation is only right as money for such lands that are desired to be developed professionally should be returned to the taxpayers who held the land in the first place. Local government and

municipal development would not require compensation at the Federal level because the land would continue to serve the taxpayers.

Mr. President, the Federal Government must see to it that these unnecessary bases—and the consequent unnecessary drain on the Federal purse—are shut down. However, we have a very real obligation to the families of these special communities who have so diligently supported our defense effort—some of these communities dating back to the days of the Pony Express. The welfare and future of these families are very real concerns to me and my colleagues. These families are hard working, skilled men and women. They are the children who will be this Nation's future. And this bill takes their concerns to heart.

This bill will help provide them the capital assets they need to keep and even improve their standards of living. It will help them remain anxiously engaged in productive and even profitable careers and service.

It's a simple bill in its conception, but profound in its impact. I'm encouraged that it has attracted the attention of distinguished colleagues who share my concern. Like I said, it is an idea whose time has come.

I yield back the floor.

The PRESIDING OFFICER. The Senator from Arkansas is recognized.

Mr. MITCHELL. Mr. President, will the Senator yield.

Mr. BUMPERS. I yield to the majority leader.

Mr. MITCHELL. Mr. President, I thank my colleague for his courtesy.

UNANIMOUS CONSENT AGREEMENT

Mr. MITCHELL. Mr. President, following consultation with the distinguished Republican leader, the managers, and a large number of Senators interested in this amendment and several others, I am about to propound an agreement which will govern disposition of the pending amendment and several succeeding matters.

Accordingly, Mr. President, I ask unanimous consent that there be unlimited debate tonight on the Breaux amendment No. 1034, with no amendment to the amendment; that when the Senate resumes consideration of S. 1507 on Friday, August 2, at 9:30 a.m., there be 30 minutes remaining for debate on the Breaux amendment, with the time equally divided and controlled between Senators GLENN and BREAU; that when the time is used or yielded back, the Senate, without intervening action or debate, proceed to vote on or in relation to the Breaux amendment; that upon disposition of the Breaux amendment, Senator EXON be recognized to offer an amendment regarding SRAM-T, on which there be 30 minutes of debate equally divided and controlled in the usual form, with no second-degree amendments in order; that when the time is used or yielded back, the Senate, without intervening action or debate, proceed to vote on or in relation to the Exon

SRAM-T amendment; that upon disposition of the SRAM-T amendment, Senator DOLE be recognized to offer an amendment regarding Iraq, on which there be 30 minutes for debate, equally divided and controlled in the usual form, with no amendment to the amendment in order;

That when all time is used or yielded back, the Senate, without intervening action or debate, proceed to vote on or in relation to the Dole amendment; that upon disposition of the Dole amendment, Senator WIRTH be recognized to offer an amendment regarding military base abortions; that upon disposition of the Wirth amendment, Senator METZENBAUM be recognized to offer an amendment regarding Intelligence Committee budget savings on which there be 1 hour for debate, equally divided and controlled in the usual form, with no second-degree amendments in order, and that when all time is used or yielded back, the Senate, without intervening action or debate, proceed to vote on or in relation to the Metzenbaum amendment; further, that no motion to recommit be in order during the pendency of this agreement, nor there be any amendments in order to any language that may be stricken.

Mr. BREAU. Mr. President, reserving the right to object, I do so only to ask the majority leader if he knows there have been discussions on an amendment that the staffs have been working on in the back. I think we have an agreement. That is being typed right now.

A lot of us will offer that amendment, which has an agreement on it.

Mr. MITCHELL. Mr. President, I ask that the amendment be modified to permit Senator BREAU, as the author of amendment No. 1034, to modify his own amendment.

Mr. LAUTENBERG. Mr. President, reserving the right to object, and I shall not object, I just want to, while Senator BREAU is still on the floor, be assured that the discussion that we have had has an agreement, and it is subject only to the writing of it, which seems to be a relatively uncomplicated task, to convey the meaning.

Is that the case, if I may ask?

Mr. BREAU. The Senator is correct. It is being typed. We have an agreement.

Mr. GLENN. Mr. President, reserving the right to object, I think the rest of us would like to know what this private agreement is that is going to be written in this; what occurs on this bill concerns us.

Mr. BREAU. If the majority leader will yield, we have to offer the amendment and it still has to be discussed, debated on, and voted.

Mr. GLENN. I thought the Senator said agreement was written into this.

Mr. LAUTENBERG. Agreement language that will be as part of the amendment.

Mr. GLENN. What I meant is, what is that agreement? We do not know if it is going to be part of the amendment.

Mr. BREAUX. I have the right to amend my own amendment. Certainly, that is subject to debate and questioning before it is voted on. It will not be voted on tonight.

Mr. GLENN. That means we cannot agree tomorrow morning, not knowing what would be in the final version of the amendment. I disagree with the unanimous-consent amendment. We debated an amendment now to a different amendment, tomorrow morning, and we are asking unanimous consent, 15 minutes on a side, if there is something I disagree with. I will not agree to the time agreement; I object.

Mr. JOHNSTON. Will the Senator yield?

Mr. MITCHELL. I have the floor. I am happy to yield to the distinguished Senator.

Mr. JOHNSTON. There has been drafting. I do not think we have agreement as to the words as yet. Perhaps the Senator from New Jersey and my colleague have, but there is clearly an agreement as to the substance, which is this: That we provide that where the property or parts of the property are not in compliance with RCRA and environmental laws, that that part of the property cannot be conveyed.

That is the clear intent of the language. It is just a question of drafting. But that is all it does. I do not think anybody disagrees with that.

Mr. LAUTENBERG. That is that. If the Senator from Louisiana will yield, if it was indicated there was a private agreement that affected just the particular interest, not at all. I approached this from the standpoint of the Environment Committee, and that is that any conveyance made by the Federal Government shall be subjected to—

Mr. GLENN. Again, if we can get a copy of this, look at it tonight, maybe we can debate it now. How does it affect State law under EPA? I do not know. Does it break down toxic waste? A lot of things are to be considered on this. Cost might be involved to the Federal Government. I find it difficult to agree to something we have not even seen.

Mr. MITCHELL. Mr. President, if I might have the attention of the junior Senator from Louisiana, it is my understanding that the discussions that have been occurring have had as their objective that stated by the senior Senator from Louisiana, which is to make clear that any property which is not in compliance with environmental laws, and specifically this Superfund law and the Resource Conversion Recovery Act, cannot be conveyed and that the modification to be proposed by the Senator from Louisiana will accomplish that objective. Based upon what I have heard of this debate, I assume, from the standpoint of the Senator from Ohio, he would welcome

that amendment, which is a modification which makes the Breaux amendment less objectionable.

Mr. GLENN. If the majority leader will yield, I indeed would welcome that. But I think we all have been around here long enough to know what a difference one or two words can make in legislation. If it is that simple, I am willing to stay here and debate it tonight. I just do not want to have a vote here without knowing what is going on.

Mr. MITCHELL. May I suggest that the Senator from Louisiana give the Senator from Ohio a copy of the modification?

Mr. GLENN. We do not have it yet. That is the problem.

Mr. MITCHELL. It was too good to be true that we could get an agreement covering four or five amendments at one time.

Mr. President, may I inquire of the junior Senator from Louisiana whether he is satisfied with the language that has been worked up to the point where he can give it to the Senator from Ohio and he can look at it for a few minutes, in which case it would be worth staying and pursuing this agreement.

Mr. GLENN. If the majority leader would yield, would it be all right if, rather than trying to do all that tonight at this hour, would it be just as well if we had a slightly extended time in the morning, let us say one-half hour on each side, instead of 15 minutes. That would give us plenty of time if it is OK, and we can probably give most of that time back.

Mr. MITCHELL. I think since we initially intended to come in at 9 and vote at 9:30 and changed that to come in at 9:30 and vote at 10, why do we not get back to the original starting time of 9 and have an hour and have the vote at the same time. Is that agreeable to the Senator from Ohio?

Mr. CONRAD. Reserving the right to object.

Mr. GLENN. With the provision we have a copy of the changes.

Mr. JOHNSTON. If we can have about 15 minutes to all go off and talk about it, I think we could maybe resolve it quickly.

Mr. DOLE. Let us get the agreement.

Mr. MITCHELL. I would be pleased to yield to the Senator from North Dakota for a question.

Mr. CONRAD. Mr. President, I have an amendment that I am attempting to get worked out on both sides, and hopefully that can be done. But I do not want to be frozen out, so I would just like to be added to the agreement.

Mr. MITCHELL. Might I respond to the Senator that this does not foreclose anyone. This is not an exclusive list or a limitation upon any other amendments. This is an effort to line up some amendments so that we can transact business efficiently in the morning.

Mr. CONRAD. I appreciate that. If you get to the point of having a list

that becomes an exclusive list, I would just like to have this amendment, which I think has the potential to be noncontroversial.

Mr. MITCHELL. I will ask the managers to make note of this.

The PRESIDING OFFICER. Is there objection?

Mr. MITCHELL. Mr. President, I am sorry, but the Senator from Louisiana has left the floor, and I am reluctant to proceed with an agreement on an amendment which he has a great interest in his absence unless we are certain that he is agreeable to it.

Mr. President, the Senator from Arkansas has been so gracious in yielding.

Might I ask the Senator if he would be willing to proceed with the understanding that in just a few moments we could interrupt again if we could get the agreement?

Mr. BUMPERS. As much as I hate to be interrupted, how can I deny the majority leader the right to interrupt me?

Mr. President, I do not know how long the consultations are going to take. I will be happy to yield to the majority leader again in a few moments if an agreement can be reached along the lines of the unanimous-consent request which he has just propounded.

Mr. President, first I commend my very distinguished colleague and good friend, Senator JOHNSTON of Louisiana, for bringing this amendment before this body.

I have more than a passing interest in this amendment for a very simple reason; that is, that my State takes the biggest hit, takes the biggest hit on a per capita basis, of any State in the Nation by these base closings.

Mississippi County, the First Congressional District of Arkansas, is one of the 10 poorest districts in America. Mississippi County, which is the center of the First Congressional District, or at least one of the centers, has not had less than a 10-percent unemployment rate in the past 10 years.

Now, you think of this. Mississippi County is the home of Eaker Air Force Base. The economy of that county, Mr. President, the only way on Earth that Mississippi County can survive is for that base to be conveyed to the people of that county and for that base to be put to some kind of civilian use to employ all of the people who are going to lose their jobs as a result of that base closing.

Mr. President, some people see human misery in abstract terms. I see human misery in real terms, because I grew up with it. I have seen the hollow faces of unemployed fathers, who had to look across the breakfast table at their families, unemployed, unable to make a car payment, unable to make a house payment, unable to even feed their families, let alone clothe them and educate them.

One of the members of the Base Closing Commission was asked this question—and I am reluctant to say this because I am not interested in denigrating members of that Commission who had a very difficult chore. But he was asked: Are economic considerations a factor in your determination? He said, no, we are really not concerned with that. We are concerned with the military value of these bases.

That went over big in Mississippi County, which has an unemployment rate of 10 percent and an unemployment rate, after Eaker Air Force Base is closed, projected to be 30 percent. You think about a county which has not had less than a 10-percent unemployment rate in 10 years and whose unemployment rate will go to 30 percent when the base is finally closed, and the cynicism, the arrogance of a member of the Base Closing Commission to say, no, we are not considering economics in this decision, with all the human misery that is brought about.

So, Mr. President, I want to say I am going to vote for the Johnston amendment. If it is not adopted, I will propose my own, and I will keep proposing my own until we get that property and the opportunity to give those people who are going to be suffering unbelievable human misery, until we get somebody onto that base that will provide economic opportunity for some of the people there.

I spoke to the school superintendent in Blytheville, AR, this afternoon. He is concerned about how they are going to pay their bond issue. There is a little town of Gosnell, just outside the boundary of Eaker Air Force Base, there are 4,000 people in Gosnell. After the base closes, there will be 2,000 people in Gosnell.

In the city of Blytheville, the school system which depends on the assessed valuation of the property in that district cannot begin to pay the bonded indebtedness that they owe when that base closes, and will not be able to pay it, even after that, unless we get that base conveyed to those people and they in turn are able to get somebody in there to utilize that property and provide jobs and build the economic base of that community.

I disagree with one part of the bill of the Senator from Louisiana were he says the President ought to have a waiver right. I would not even give the President the waiver right. This property ought to be conveyed back to those people.

For people to sit around here in the evening, tonight and tomorrow, and talk about every little T being crossed and every I dotted, they do not know the magnitude of human misery that this base closing is causing all across America.

Every Senator here who comes out whole on this is going to vote for the base closings. They are going to be so relieved that they did not have a base closed. And to hell with those who did.

Those of us who know the human misery this is causing have a quite different attitude about it. So I strongly support the amendment of the Senator from Louisiana. I do not want Eaker Air Force Base, if it has some toxic waste on it and some other problems. I do not want it to be conveyed. But otherwise we are entitled to it. I am going to support this amendment, and if it is not adopted I will support a dozen more until one is adopted.

I yield the floor.

END

THE C-17 PROGRAM

Mr. D'AMATO. Mr. President, today, the C-17 is 18 months behind schedule and as much as \$2.6 billion over budget. The latest reports indicate that first flight is unlikely before the end of August and could slip to the end of the year.

Secretary Cheney made it clear with the termination of the A-12 that he does not suffer botched development programs gladly, though, in fairness to the manufacturers associated with that ill-fated aircraft, the design was revolutionary.

It is fortunate for the Air Force that the purely evolutionary C-17 has not been held to the same standards applied by Secretary Cheney to the A-12. The schedule slips and cost overruns experienced by the C-17 program are certainly as bad, if not worse, than those of the A-12 program when it was cancelled.

This was hardly the outcome anticipated when the fixed price development contract for the C-17 was signed in 1985. All of the major subsystems were flying or soon would be on other aircraft. As Brig. Gen. Elbert Harbour, then Deputy for airlift-trainer systems, said at the time, "I can't think of anything we're going to have to invent."

In fact, the Air Force was so confident about the C-17 that it proposed accelerating funding for the first 2 years of full-scale development in order to achieve significant R&D savings and permit early start on fabrication and risk reduction. By the end of 1987, however, the program had gone sour.

Fabrication and assembly of the first aircraft was delayed between December 1987 and August 1988. Major subcontractors were replaced or the work brought in house. By 1989, it became obvious that the original schedule was hopelessly unachievable and the entire program was rebaselined. The new schedule, however, could not prevent the latest first flight date, slipped from February 1989 to June 1991, from being missed yet again. Whether in reaction, or coincidentally, it was recently announced that C-17 work would be shifted from California to Missouri. How this will impact cost and schedule is unknown.

Incredibly, delays and overruns, while ominous, may not be the biggest problems associated with the C-17. It appears that at least three times since the fixed price development contract

for the C-17 was signed in 1985 that the Air Force waived performance specifications guaranteed by warranty in return for concessions. No explanation has been offered as to why these waivers were required and granted, what performance versus mission requirement tradeoffs were considered, and what concessions were gained for the relief granted.

Most recently, the Air Force is reported to have dropped event-based contracting, a form of discipline that I am happy to say the Senate Armed Services Committee has sought to restore in its mark. More disturbing is the apparent handling, and possible linking, by the Pentagon of contractor requests for deferral of repayment of \$1.35 billion associated with the A-12 and the creation of a \$1 billion advanced payment pool and negotiations concerning C-17 contract options. This, combined with the aforementioned waivers which released the contractor from financial responsibility for meeting guaranteed performance specifications, hints at both a contractor and a program in dire straits.

Congress has supported the C-17 on the basis of its unique mixture of capabilities. If, in fact, those capabilities will not be achieved, or have been seriously compromised, it may behoove us to consider other options to C-17 production before we are in too deeply to pull out. For example, the exorbitant cost of the C-17 has been justified, and accepted, on the basis of its advantages over the C-5. Without those advantages, the vastly less expensive C-5 becomes a very appealing solution to addressing our long-standing airlift shortfall.

The Senate Armed Services Committee has taken an important step in the direction of bringing order to this program. I invite colleagues who share my commitment to modernizing the airlift capability of this country to question, to explore, and to exercise their oversight privileges over the C-17, a program that seems to have run amok.

DASCHLE-WOFFORD BURDEN-SHARING

Mr. WOFFORD. Mr. President, every year, the United States spends more than \$130 billion to subsidize the defense of our most prosperous and economically competitive allies. To put it in perspective, that's six times more than the Federal Government spends on educating America's young people each year.

Our deployment of hundreds of thousands of American troops across the globe was a reaction to events of the post World War II and cold war world. It made sense for our Nation to position vast armies in Western Europe when vast armies of Soviet and Warsaw Pact troops were lined up against us in the East. But the Warsaw Pact has dissolved. The Berlin Wall has fallen. The Soviet Union is breaking apart. And just yesterday, Presidents Bush and Gorbachev signed the first United States-Soviet

there be 60 minutes remaining for debate on the amendment.

Mr. President, I withhold my request. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered. The majority leader is recognized.

Mr. MITCHELL. Mr. President, I renew my request.

The PRESIDING OFFICER. Is there objection? Hearing none, it is so ordered.

ORDER OF PROCEDURE

Mr. MITCHELL. Mr. President, I thank my colleagues for their patience and cooperation. There will be no further rollcall vote this evening. Senators should anticipate a rollcall vote on the pending measure at approximately 10 a.m. tomorrow.

Under the agreement there will be an unlimited period for debate this evening. Any Senators who wish to address this measure further this evening are free to do so, and there will be 1 hour for debate on this amendment tomorrow, between 9 a.m. and 10 a.m.

I thank, especially the managers for their diligence in this matter.

Mr. NUNN. Will the leader yield for a brief question just to make absolutely clear, no other amendments will be permitted tonight?

Mr. MITCHELL. That is correct. To make it clear, on that, I ask unanimous consent that for the remainder of the session tonight, or for however long it goes, if it goes into the early morning hours of tomorrow, that there be debate only on the pending amendment and that there be no other action on the bill.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator from Louisiana.

Mr. BREAU. Mr. President, I ask the majority leader and also the President, am I correct it would be in order, under the unanimous consent to now modify the amendment as the leader just said?

Mr. MITCHELL. Yes.

AMENDMENT NO. 1034, AS MODIFIED

Mr. BREAU. Mr. President, I send a modification to the desk.

The PRESIDING OFFICER. The Senator has that right. The amendment is so modified.

The amendment (No. 1034), as modified, is as follows:

On page 378, between lines 3 and 4, insert the following:

SEC. 2804. CONVEYANCE OF CLOSED BASES TO NEIGHBORING COMMUNITIES.

(a) FINDINGS AND PURPOSES.

(1) The Congress finds that—

A. The Department of Defense has been directed to reduce the size and cost of the

military and this can only be accomplished by closing military installations;

B. A military installation is a part of the infrastructure of the community in which it is located and there is a long standing symbiotic relationship between a military installation and the community;

C. The people in an impacted community have made substantial, long term investments of time, training, and wealth to support the military installations;

D. The loss to an impacted community when a military installation is closed may be substantial and in such cases the Congress wishes to mitigate the damage to the impacted community;

E. An impacted community knows best the needs of the community and the best way to use available resources to meet these needs consistent with existing national priorities; and

F. Unfettered ownership of the real property associated with a closed military installation at the earliest possible time can partially offset the loss to a community which results when a military installation is closed.

(2) Therefore, it is the purpose of this Section—

A. To benefit communities impacted significantly when a military installation located in such communities is closed by authorizing the real and excess-related personal property, on which the military installations are located to be conveyed to the impacted community as soon as possible after a decision to close the military installation is made but no later than 180 days after closure; and

B. To provide significantly impacted communities a resource which will aid in mitigating the loss incurred by the community following a decision to close a military installation and which may be used by the impacted community, as the community deems appropriate, for industrial, commercial, residential, recreational, or public uses.

(b) IN GENERAL.—(1) Notwithstanding any other provision of law, the Secretary of Defense shall convey to an eligible political subdivision or subdivisions or State all right, title, and interest of the United States in the military installation closed pursuant to a base closure law in accordance with this section and the Comprehensive Environmental Response, Compensation, and Liability Act and the Solid Waste Disposal Act as determined by the Administrator of the Environmental Protection Agency.

(2) Even if the conditions set forth in paragraph (1) have been satisfied, the Secretary shall not convey such installation if the Secretary determines that the community or communities in the area of the real property to be conveyed are not experiencing or will not experience a significant adverse economic impact as a result of the closure of that military installation.

(c) DETERMINATIONS.—(1) The Secretary must make the determination referred to in subsection (b) in the case of a military installation as soon as practicable after the installation has been identified for closure, but in any event not later than the date on which the installation is closed.

(2) In determining whether a community is experiencing or will experience a significant adverse economic impact as a result of the closure of a military installation, the Secretary shall consider such objective evidence as the following:

(A) Declining real estate values.

(B) Increasing unemployment.

(C) Loss of revenue to the State and the community.

(D) Increasing rate of business failures.

(E) Significant decreases in total personal income.

(d) ADVANCE NOTICE TO ELIGIBLE STATES AND POLITICAL SUBDIVISIONS.—As soon as practicable after a military installation has been identified for closure, but in any event not later than the date on which the installation is closed, the Secretary shall transmit to the appropriate political subdivision, communities, counties and State to which property at such installation may be conveyed pursuant to this section advance notification of the Secretary's intention to make a conveyance of that property.

(e) ELIGIBLE STATES AND POLITICAL SUBDIVISIONS.—Property at a military installation that is to be conveyed pursuant to the requirement in subsection (b) shall be conveyed to a political subdivision or subdivisions or State in the following order of priority:

(1) To a political subdivision of a State that is designated in State law to receive the conveyance of such property and accepts the conveyance.

(2) If there is no political subdivision that satisfies the criteria in paragraph (1), then to the State in which the property is located if the law of that State designates the State to receive the conveyance of such property and the State accepts the conveyance.

(3) In the case of any real property for which neither a State nor a political subdivision of a State satisfies the criteria in paragraph (1) or (2), then to one or more political subdivisions of a State which the Secretary determines, after consultation with appropriate local officials, would best serve the interests of the residents of such subdivision or subdivisions and of the State in which the property is located, providing such subdivision or subdivisions accept such conveyance.

(4) In the case of any real property for which no subdivision or subdivisions or State accept such conveyance, then the Secretary shall offer the property to other departments and agencies of the Federal government.

(f) PROPERTY TO BE CONVEYED.—In addition to the conveyance of real property to a community or State pursuant to this section, the Secretary shall convey any related personal property that the Secretary determines is appropriate for use by the recipient in connection with the recipient's use of the real property.

(g) CONVEYANCE DEADLINE.—Except as provided in subsection (h), all property to be conveyed pursuant to this section in connection with the closure of a military installation shall be conveyed within 180 days after the date on which the installation is closed.

(h) PROPERTY NOT SUITABLE FOR CONVEYANCE.—The Secretary shall sever from the real property of a closed military installation to be conveyed pursuant to subsection (b) that real property which is not suitable for conveyance and make such transfers over a period longer than that which would otherwise be permitted under subsection (g). Property is not suitable for conveyance under the following conditions:

(1) When the political subdivision or state will not accept conveyance of a part of the real property of a closed military installation; or

(2) If the Administrator of the Environmental Protection Agency determines that such conveyance does not comply with the requirements of either the Comprehensive Environmental Response Compensation and Liability Act of 1980 or the Solid Waste Disposal Act; or

(3) When necessary to ensure completion of environmental restoration and mitigation projects.

(i) CONSIDERATION NOT TO BE REQUIRED.—No consideration may be required for a con-

veyance of property pursuant to this section.

(J) **WAIVER AUTHORITY.**—(1) Subject to paragraph (2), the President may waive in whole or in part the requirement to convey property at a military installation under subsection (b) if the President—

(A) determines that the continuation of the United States interest in such property—

(i) is vital to national security interests; or
(ii) the value of the base is so high that a conveyance to the political subdivision or state would constitute an undue windfall to the community and would not be necessary for the economic recovery of the region, provided that the number of waivers exercised under this Act do not exceed a cumulative total of five military installations for each package of closures approved by a commission under the Base Closure law. Provided further, a waiver in part shall not count against this limit if the value of the property reserved does not exceed 25% of the total value of such installation or if the appropriate political subdivision or state agrees with the reservation; and

(B) transmits to the Committees on Armed Services of the Senate and the House of Representatives a certification of such determinations together with the reasons for such determinations.

(2) A determination and certification in the case of the closure of any military installation shall be effective only if made before the earlier of—

(A) the date on which the installation is closed; or

(B) December 31 of the year following the later of the year in which the closure of that installation is approved by the President.

(3) The President may extend the deadline for making a determination and certification under paragraph (2) for not more than two successive periods of 90 days by transmitting to the congressional defense committees a notification of the extension before the end of the deadline or extended deadline, as the case may be.

(4) The President may withdraw a waiver under paragraph (1) in the case of any military installation. Not later than 180 days after the withdrawal of the waiver, the Secretary of Defense shall make the conveyance required by subsection (a) in accordance with this section.

(K) **CONTINUING RESPONSIBILITY OF THE DEPARTMENT OF DEFENSE.**—Prior to and after any conveyance of real property of a closed military installation pursuant to this section, the Secretary of Defense in consultation with the political subdivision or state shall be responsible for the following matters:

(i) To provide economic adjustment and community planning assistance including assistance in conducting public hearings to decide the appropriate use of a closed military installation to communities near the closed military installation until such time as the economic stability of such communities is achieved, as determined by the Secretary.

(ii) To comply with the Comprehensive Environmental Restoration Compensation Liability Act of 1980 and the Solid Waste Disposal Act in consultation with the Administrator of the Environmental Protection Agency.

(iii) To continue to carry out environmental restoration and mitigation activities relating to uses made of such installation before closure.

(L) **SOURCES OF FUNDING.**—The Secretary may expend any funds in the Base Closure Account to carry out the responsibilities referred to in subsection (k) and the Secretary

shall notify the Congressional defense committees in advance of the obligation of funds for such purpose.

(M) **IMPROVEMENT OF PROPERTY PENDING CONVEYANCE.**—(1) Notwithstanding any other provision of law, the Secretary of Defense and the head of any other department or agency of the Federal Government may continue, on and after the applicable date referred to in paragraph (2), to obligate funds (to the extent available) for making improvements to the property that has not been conveyed that will facilitate the conveyance of the property and are consistent with the use to be made of the property by the recipient of the conveyance.

(2) Paragraph (1) applies in the case of property at a military installation on and after the later of the date on which the closure of that installation is approved by the President.

(N) **DEFINITIONS.**—In this section:

(1) The term "military installation" has the meaning given such term in section 2687(e)(1) of title 10, United States Code.

(2) The term "base closure law" means the following:

(A) The Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 102-510; 104 Stat. 1808; 10 U.S.C. 2687 note).

(B) Title II of the Defense Authorization Amendments and Base Closure and Realignment Act (Public Law 100-526; 10 U.S.C. 2687 note).

(C) Section 2687 of title 10, United States Code.

(3) The term "base closure account" means the following:

(A) The Department of Defense Base Closure Account established by section 207(a) of the Defense Authorization Amendments and Base Closure and Realignment Act (Public Law 100-526; 10 U.S.C. 2687 note).

(B) The Department of Defense Base Closure Account 1990 established by section 2906 of the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 102-510; 104 Stat. 1815; 10 U.S.C. 2687 note).

In section 2(b), amend the table of contents by inserting after the item relating to section 2803 the following new item:

Sec. 2804. Conveyance of closed bases to neighboring communities.

Mr. MITCHELL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BREAU. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

MORNING BUSINESS

Mr. BREAU. Mr. President, I ask unanimous consent the Senate be in a period of morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. BREAU. Mr. President, I ask unanimous consent that the Senate proceed to executive session to consider the following nominations:

Calendar 287: Joyce E. Tucker, to be a member of the Equal Employment Opportunity Commission

Calendar 290: The following persons to be members of the Board of Directors of the Commission on National and Community Service:

For a term of 1 year:

Gayle E. Wilson;
George W. Romney;
Karen S. Young;
William J. Byron;
Glen W. White.

For a term of 2 years:

Richard F. Phelps;
Alan Khazel;
Paul N. McCloskey, Jr.;
Reatha C. King;
Shirley S. Sagawa;
Wayne W. Meisel.

For a term of 3 years:

Daniel J. Evans;
Maria H. Ferrier;
Frances Hesselbein;
Patricia T. Rouse;
Joyce M. Black.

I further ask unanimous consent that the nominees be confirmed, en bloc; that any statements appear in the RECORD as if read; that the motions to reconsider be laid upon the table, en bloc; that the President be immediately notified of the Senate's action; and that the Senate return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nominations considered and confirmed, en bloc, are as follows:

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

Joyce Elaine Tucker, of Illinois, to be a member of the Equal Employment Opportunity Commission for a term expiring July 1, 1996. (Reappointment.)

COMMISSION ON NATIONAL AND COMMUNITY SERVICE

The following named persons to be members of the Board of Directors of the Commission on National and Community Service for the terms indicated:

For terms of 1 year:

Gayle Edlund Wilson, of California.
George Wilcken Romney, of Michigan.
Karen Susan Young, of California.
William J. Byron, of the District of Columbia.

Glen W. White, of Kansas.

For terms of 2 years:

Richard Frederick Phelps, of Indiana.
Alan Khazel, of Massachusetts.
Paul N. McCloskey, Jr., of California.
Reatha Clark King, of Minnesota.
Shirley Sachi Sagawa, of Virginia.
Wayne W. Meisel, of Minnesota.

For terms of 3 years:

Daniel J. Evans, of Washington.
Maria Hernandez Ferrier, of Texas.
Frances Hesselbein Jul 31, 91 Patricia Traugott Rouse, of Maryland, Joyce M. Black, of New York, Mr. Kennedy, Committee on Labor and Human Resources, without printed report.

STATEMENT ON THE NOMINATION OF THE COMMISSION ON NATIONAL SERVICE

Mr. KENNEDY. Mr. President, today I am pleased to recommend the confirmation of 16 Board Members of the Commission on National Service. The President nominated the mem-

approve or disapprove such a report.''; and

(2) and by inserting at the end the following new paragraph:

“(6)(A) During 1992 and 1994--

~~“(1) no person may be employed or detailed to serve on the staff of the Commission before October 1,~~

^{"1"}“(1) there may not be more than ^{"15"}~~15~~ persons on the staff at any one time;

^{"ii"}“(11) the staff may perform only such ~~administrative~~ functions as are necessary to prepare for the transition to new membership on the Commission in the following year; and

^{"iii"}“(14) no member of the Armed Forces and no employee of the Department of Defense may serve on the staff.’’.

(c) Selection Criteria.--Section 2983(b)(2)(E) of such Act is amended--

(1) by striking out ‘‘February 15’’ in the first sentence and inserting in lieu thereof ‘‘January 15’’; and

(2) by striking out ‘‘March 15’’ in the second sentence and inserting in lieu thereof ‘‘February 15’’.

(d) DOD Recommendations.--Section 2983(c) of such Act is amended--

(1) in paragraph (1), by striking out ‘‘April 15, 1993, and April 15, 1995’’ and inserting in lieu thereof

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ARM91 .428

S.I.C.

69

1 (d) Termination of Authorizations for Projects at Certain
2 Installations.--In the case of any authorization made by this
3 division for any military construction project, including any
4 military family housing project, which is located at any
5 installation to be closed or realigned pursuant to section
6 2904 of the Defense Base Closure and Realignment Act of 1990
7 (part A of title XXIX of Public Law 101-510; 10 U.S.C. 2627
8 note) and which the Secretary of the military department
9 concerned determines, within the three-day period beginning
10 on the date of adjournment of the 1st Session of the 102d
11 Congress sine die, is not necessary because of such closure
12 or realignment, the project approval for such project under
13 this division is terminated as of the date of such
14 determination.

15 TITLE XXVIII--GENERAL PROVISIONS

16 Part A--Defense Base Closure and Realignment Amendments
17 SEC. 2801. DEFENSE BASE CLOSURE AND REALIGNMENT COMMISSION.

18 (a) Appointment of Commission.--Paragraph (1) of section
19 2902(c) of the Defense Base Closure and Realignment Act of
20 1990 (part A of title XXIX of Public Law 101-510; 10 U.S.C.
21 2687 note) is amended by adding at the end the following new
22 subparagraph:

23 "(C) If the President does not transmit to Congress the
24 nominations for appointment to the Commission on or before
25 the date specified for 1993 in clause (11) of subparagraph

ARM91 .428

70

S.L.C.

1 (B) or for 1995 in clause (iii) of such subparagraph, the
2 process by which military installations may be selected for
3 closure or realignment under this part with respect to that
4 year shall be terminated."

5 (b) Employment of Staff.--Section 2902(1) of such Act is
6 amended--

7 (1) in paragraph (3)--

8 (A) by inserting "(A)" after "(3)"; and

9 (B) by adding at the end the following new
10 subparagraphs:

11 "(B) Not more than one-third of the professional
12 analysts of the Commission staff may be persons detailed from
13 the Department of Defense to the Commission.

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

20 "(D) No member of the Armed Forces, and no officer or
21 employee of the Department of Defense, may (i) prepare any
22 report concerning the effectiveness, fitness, or efficiency
23 of the performance on the staff of the Commission of any
24 person detailed from the Department of Defense to that staff,
25 (ii) review the preparation of such a report, or (iii)

approve or disapprove such a report.''; and

(2) and by inserting at the end the following new paragraph:

“(6)(A) During 1992 and 1994--

~~“(1) no person may be employed or detailed to serve on the staff of the Commission before October 1,~~

^{“i”}“(1) there may not be more than ^{“15”}~~10~~ persons on the staff at any one time;

^{“ii”}“(1) the staff may perform only such administrative functions as are necessary to prepare for the transition to new membership on the Commission in the following year; and

^{“iii”}“(1) no member of the Armed Forces and no employee of the Department of Defense may serve on the staff.’’.

(c) Selection Criteria.--Section 2903(b)(2)(B) of such Act is amended--

(1) by striking out ‘‘February 15’’ in the first sentence and inserting in lieu thereof ‘‘January 15’’; and

(2) by striking out ‘‘March 15’’ in the second sentence and inserting in lieu thereof ‘‘February 15’’.

(d) POD Recommendations.--Section 2903(c) of such Act is amended--

(1) in paragraph (1), by striking out ‘‘April 15, 1993, and April 15, 1995’’ and inserting in lieu thereof

IRM91 .428

72

S.L.C.

''March 15, 1993, and March 15, 1995'';

(2) in paragraph (4), by inserting at the end the following: ''The Secretary shall also make such information available, upon request, to Congress (including any committee or member of Congress).''; and

(3) by inserting at the end the following new paragraph:

''(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

1 each Defense Agency shall prescribe for personnel within
2 that Defense Agency."

3 (e) Commission Recommendations.--Section 2903(d) of such
4 Act is amended--

5 (1) in paragraph (2)(B), by striking out "In
6 making" and inserting in lieu thereof "Subject to
7 subparagraph (C), in making"; and

8 (2) by adding at the end of paragraph (2) the
9 following new subparagraphs:

10 "(C) The Commission may make a change to the Secretary's
11 recommendations as described in subparagraph (D) only if--

12 "(i) the Commission makes the determination referred
13 to in subparagraph (B);

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

17 "(iii) the Commission publishes a notice of the
18 proposed change in the Federal Register not less than 30
19 days before transmitting its recommendations to the
20 President pursuant to paragraph (2); and

21 "(iv) the Commission conducts public hearings on the
22 proposed change.

23 "(D) Subparagraph (C) applies to a change of the
24 Secretary's recommendations that--

25 "(1) adds a military installation to the list of

ARM91 .428

74

S.L.C.

1 military installations recommended by the Secretary for
2 closure;

3 "(ii) adds a military installation to the list of
4 military installations recommended by the Secretary for
5 realignment; or

6 "(iii) increases the extent of a realignment of a
7 particular military installation recommended by the
8 Secretary."

9 (f) Environmental Restoration and Mitigation.--Section
10 2905(a)(1)(C) of such Act is amended by striking out "or
11 funds" and all that follows through "mitigation".

12 (g) Military Installation Defined.--(1) Section 2910(4)
13 of such Act is amended by inserting at the end the following:
14 "Such term does not include any facility used primarily for
15 civil works, rivers and harbors projects, flood control, or
16 other projects not under the primary jurisdiction or control
17 of the Department of Defense."

18 (2) The amendment made by paragraph (1) shall take effect
19 as of November 5, 1990, and shall apply as if it had been
20 included in section 2910(4) of Public Law 101-510 on that
21 date.

22 (h) Prohibition Against Restricting Communications With
23 the Commission.--The Defense Base Closure and Realignment Act
24 is further amended by adding at the end the following new
25 section:

ARM91 .428

75

S.L.C.

1 ``SEC. 2912. COMMUNICATIONS WITH THE COMMISSION

2 ``Section 1034 of title 10, United States Code, applies
3 with respect to communications with the Defense Base Closure
4 and Realignment Commission.''.
5

6 (1) No Authority To Withhold Information.--Nothing in
7 this section or in the Defense Base Closure and Realignment
8 Act of 1990 shall be construed to authorize the withholding
9 of information from Congress, any committee or subcommittee
10 of Congress, or the Comptroller General of the United States.

11 SEC. 2802. CONSISTENCY IN BUDGET DATA.

12 (a) Military Construction Funding Requests.--In the case
13 of each military installation considered for closure or
14 realignment or for comparative purposes by the Commission,
15 the Secretary of Defense shall ensure, subject to subsection
16 (b), that the amount of the authorization requested by the
17 Department of Defense for each military construction project
18 in each of fiscal years 1992 through 1999 for the following
19 fiscal year does not exceed the estimate of the cost of such
20 project (adjusted as appropriate for inflation) that was
21 provided to the Commission by the Department of Defense.

22 (b) Explanation for Inconsistencies.--If, in any fiscal
23 year referred to in subsection (a), the Secretary determines
24 that it is necessary to submit to Congress a request for the
25 authorization of a military construction project referred to
in that subsection in an amount that exceeds the estimated

ARM91 .428

76

S.L.C.

1 cost referred to for that project in that subsection, the
2 Secretary may submit the request for that amount, but shall
3 also submit with that request a complete explanation of the
4 reasons for the difference between the requested amount and
5 that estimated cost.

6 (c) DoD Inspector General's Investigation.--(1) The
7 Inspector General of the Department of Defense shall
8 investigate each military construction project for which (A)
9 the Secretary is required to submit an explanation to
10 Congress under subsection (b), and (B) the difference
11 required to be explained is significant, as determined under
12 standards prescribed by the Inspector General.

13 (2) The Inspector General shall determine, with respect
14 to each investigated project, the following matters:

15 (A) Why the amount requested to be authorized in the
16 case of that project exceeds the estimated cost of such
17 project that was submitted to the Commission by the
18 Department of Defense.

19 (B) Whether the relevant information submitted to the
20 Commission with respect to that project was inaccurate,
21 incomplete, or misleading in any material respect.

22 (3) The Inspector General shall report his findings to
23 the Secretary. The Secretary shall forward a copy of the
24 report to the congressional defense committees.

25 (d) Definition.--In this section:

ARM91 .428

S.L.C.

1 (1) The term "Commission" means the Defense Base
 2 Closure and Realignment Commission established by section
 3 2901 of the Defense Base Closure and Realignment Act of
 4 1990 (part A of title XXIX of Public Law 101-510; 10
 5 U.S.C. 2687 note).

6 (2) The term "military installation considered for
 7 closure or realignment by the Commission" means a
 8 military installation that has been identified as a
 9 candidate or an alternative candidate for closure or
 10 realignment by the Commission during the Commission's
 11 deliberations pursuant to section 2903(d) of such Act.

12 SEC. 2803. ELIGIBILITY OF DEPARTMENT OF DEFENSE EMPLOYEES AND
 13 MEMBERS OF THE ARMED FORCES FOR HOMEOWNERS
 14 ASSISTANCE IN CONNECTION WITH BASE CLOSURES.

15 (a) Expanded Eligibility.--Subsection (b) of section 1013
 16 of the Demonstration Cities and Metropolitan Development Act
 17 of 1966 (42 U.S.C. 3374) is amended by striking out the
 18 matter above the first proviso and inserting in lieu thereof
 19 the following:

20 "(b)(1) In order for a civilian employee to be eligible
 21 for the benefits of this section, the employee--

22 "(A) must be assigned to or employed at or in
 23 connection with the installation or activity at the time
 24 of public announcement of the closure action, or employed
 25 by a nonappropriated fund instrumentality operated in

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Defense Base Closure Amendments

The Defense Base Closure and Realignment Act (title XXIX of the National Defense Authorization Act for Fiscal Year 1991) established a procedure to govern the complex and difficult issue of base closures and realignments. The procedure applies to the closure or realignment of those military activities in the United States covered by section 2687 of title 10, United States Code.

Pursuant to the Act, the President nominated and the Senate confirmed members of the 1991 Defense Base Closure and Realignment Commission. The Secretary of Defense, as required by the Act, developed, circulated for comment, and published criteria for selecting military installations. In addition, the Secretary developed a long-term force structure plan, as required by the Act. On April 12, 1991, the Secretary published his recommendations, which called for the closure of 43 installations and the realignment of 28 others.

The Commission, assisted by the General Accounting Office, analyzed the Secretary's list. After a series of installation visits and public hearings, the Commission identified additional installations and activities for consideration for closure or realignment.

In its report to the President on July 1, the Commission recommended the closure of 34 installations and the realignment of 48 others. The President subsequently approved the Commission's report and forwarded it to Congress. If a resolution of disapproval is not enacted within the 45-day period specified in section 2904(b) of the Act, the closure and realignment recommendations of the Commission will have the force and effect of law.

The process followed by the Department and the Commission has come under intense public scrutiny. The committee has monitored this process closely. The Commission has worked hard to encourage public participation. All Commission hearings have been open, and many were extensively covered by the media. Although the committee reserves judgment on the merits of the Commission's recommendations, the committee believes that the process, in general, has operated in a manner consistent with the intent of the Act.

The experience of the last several months has highlighted a number of areas which call for improvement in the implementation of that process. The committee recommends the following improvements in the operation of the Act in the event that the Secretary of Defense recommends additional installations for closure or realignment in 1993 or 1995:

1. The time available to the Commission and to the General Accounting Office to analyze and make recommendations concerning the closures and realignments recommended by the Secretary of Defense would be increased by one month. This would be accomplished by establishing earlier deadlines for the Department of Defense to develop closure criteria, publish a long-term force structure plan, and for the Secretary to make his recommendations to the Commission. The revised deadline for the Secretary's recommendations would be March 15, rather than April 15.

In order to insure that the Commission has sufficient time to organize itself prior to receiving the Secretary's recommendations, the legislation would require the President to submit to the Senate a complete slate of nominees for the Commission within the statutory deadlines in January 1993 and January 1995 as a precondition for using the base closure procedures under the Act.

2. The legislation would clarify the procedures the Commission must use in considering for closure or realignment any installations or activities outside the list recommended by the Secretary. The Commission would be required to identify such installations and activities in the Federal Register at least 30 days prior to the submission of the Commission's report to the President, and to hold public hearings concerning these additional installations. The legislation would make it clear that the Commission can add installations to the Secretary's list of recommended actions only if the Commission determines that the Secretary deviated substantially from the published force structure plan and final criteria. Any additions to the Secretary's list by the Commission must be consistent with the Department's force structure plan and the final criteria.

3. The legislation would provide that in 1992 and 1994 (the years in which the base closure process does not operate), no staff could be employed until October 1. At that time, the outgoing Chairman could appoint a staff of not more than 10 administrative personnel, whose sole function would be to perform such administrative functions as are necessary to prepare for the transition to new membership on the Commission in the following year.

4. Under current law, no more than one-third of the Commission's staff may be detailed from DOD. To further strengthen the independence of the staff, the legislation would provide the following additional limitations: (a) no more than one-third of the Commission's research and analysis staff could be detailed from DOD; (b) DOD personnel who had been personally involved in the development of Department closure and realignment initiatives during the previous 12 months could not be detailed to the Commission; and (c) no employee of the Department could render performance reports on Commission staff detailed from the DOD for the period of their service to the Commission.

5. To underscore the importance of base closure and realignment information submitted to the Secretary of Defense or to the Commission, the legislation would require persons in a position of responsibility with respect to such submissions to certify the accuracy and completeness of the information. In addition, the legislation would require that the Department, in the presentation of a military construction request, use the same estimates that were used by the Department during the base closure and realignment process for that project. In the event that there are any differences in project cost estimates (other than adjustments for inflation), the Department would be required to explain such differences in the budget justification material. In addition, the DOD Inspector General would investigate any project involving a significant difference between the estimates submitted to the Commission and the estimates in the budget request, to determine the reasons for the differences, including a determination as to whether any of the information submitted to the Commission was inaccurate, incomplete, or misleading in any material respect.

6. A key element to public support for the base closure process is the prompt disclosure to the Commission, GAO, and Congress of all information used by the Department in making its recommendations, including information about installations not on the list used for comparative purposes. The legislation would expressly set forth the Department's obligation to respond to any request from Congress, including a request from a committee or a Member of Congress, for any such information. Similarly, the legislation would encourage communications with the Defense Base Closure and Realignment Commission by expanding the applicability of prohibitions against interference with communications by members of the armed forces contained in section 1034 of title 10, United States Code.

7. The legislation would establish the Department of Defense Base Closure Account as the sole source of funds for the environmental restoration of installations being closed under the Act.

8. The legislation would make it clear that Congress intended, in enacting the Defense Base Closure and Realignment Act, to exclude from the Act's coverage those facilities used primarily for civil works, rivers and harbors projects, flood control, or other projects not under the primary jurisdiction of the Department of Defense. This aspect of the recommended legislation has retroactive effect, ensuring that the Corps of Engineers civil works activities on the Commission's 1991 list are not subject to closure or realignment under the Act. This action would not have any effect on the balance of the Commission's recommendations, which are subject to review by Congress under section 2904(b) of the Act.

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DRAFT
July 10, 1991
11:30 p.m.

1 SEC. 29__ . DEFENSE BASE CLOSURE AMENDMENTS.

2 (a) APPOINTMENT OF COMMISSION.—Paragraph (1) of
3 section 2902(c) of the Defense Base Closure and Realign-
4 ment Act of 1990 (part A of title XXIX of Public Law
5 101–510; 10 U.S.C. 2687 note) is amended by adding at
6 the end the following new subparagraph:

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

14 (b) EMPLOYMENT OF STAFF.—Section 2902(i) of such
15 Act is amended—

16 (1) in paragraph (3)—

17 (A) by inserting “(A)” after “(3)”; and

18 (B) by adding at the end the following new
19 subparagraphs:

1 “(B) Not more than one-third of the professional ana-
2 lysts of the Commission staff may be persons detailed
3 from the Department of Defense to the Commission.

4 “(C) A person may not be detailed from the Depart-
5 ment of Defense to the Commission if, within 12 months
6 before the detail is to begin, that person participated per-
7 sonally and substantially in any matter within the Depart-
8 ment of Defense concerning the preparation of recommen-
9 dations for closures or realignments of military installa-
10 tions.

11 “(D) No member of the Armed Forces, and no officer
12 or employee of the Department of Defense, may (i) pre-
13 pare any report concerning the effectiveness, fitness, or ef-
14 ficiency of the performance on the staff of the Commission
15 of any person detailed from the Department of Defense to
16 that staff, (ii) review the preparation of such a report, or
17 (iii) approve or disapprove such a report.”; and

18 (2) and by inserting at the end the following
19 new paragraph:

20 “(6)(A) During 1992 and 1994—

21 “(i) no person may be employed or detailed to
22 serve on the staff of the Commission before October
23 1;

24 “(ii) there may not be more than 10 persons on
25 the staff at any one time;

1 “(iii) the staff may perform only such adminis-
2 trative functions as are necessary to prepare for the
3 transition to new membership on the Commission in
4 the following year; and

5 “(iv) no member of the Armed Forces and no
6 employee of the Department of Defense may serve
7 on the staff.”.

8 (c) SELECTION CRITERIA.—Section 2903(b)(2)(B) of
9 such Act is amended—

10 (1) by striking out “February 15” in the first
11 sentence and inserting in lieu thereof “January 15”;
12 and

13 (2) by striking out “March 15” in the second
14 sentence and inserting in lieu thereof “February
15 15”.

16 (d) DOD RECOMMENDATIONS.—Section 2903(c) of
17 such Act is amended—

18 (1) in paragraph (1), by striking out “April 15,
19 1993, and April 15, 1995” and inserting in lieu
20 thereof “March 15, 1993, and March 15, 1995”; and

21 (2) by inserting at the end the following new
22 paragraph:

23 “(5)(A) Each person referred to in subparagraph (B),
24 when submitting information to the Secretary of Defense
25 or the Commission concerning the closure or realignment

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1 of a military installation, shall certify that such information
2 is accurate and complete to the best of that person's
3 knowledge and belief.

4 "(B) Subparagraph (A) applies to the following per-
5 sons:

6 "(i) The Secretaries of the military departments.

7 "(ii) The heads of the Defense Agencies.

8 "(iii) Each person who is in a position the
9 duties of which include personal and substantial in-
10 volvement in the preparation and submission of in-
11 formation and recommendations concerning the clo-
12 sure or realignment of military installations, as des-
13 ignated in regulations which the Secretary of De-
14 fense shall prescribe, regulations which the Secretary
15 of each military department shall prescribe for per-
16 sonnel within that military department, or regulations
17 which the head of each Defense Agency shall pre-
18 scribe for personnel within that Defense Agency."

19 (e) COMMISSION RECOMMENDATIONS.—Section
20 2903(d) of such Act is amended—

21 (1) in paragraphs (2)(A) and (4), by striking out
22 "July 1" and inserting in lieu thereof "August 1";

23 (2) in paragraph (2)(B), by striking out "In
24 making" and inserting in lieu thereof "Subject to
25 subparagraph (C), in making"; and

1 (3) by adding at the end of paragraph (2) the
2 following new subparagraphs:

3 “(C) The Commission may make a change to the
4 Secretary’s recommendations as described in subparagraph
5 (D) only if—

6 “(i) the Commission makes the determination
7 referred to in subparagraph (B);

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

11 “(iii) the Commission publishes a notice of the
12 proposed change in the Federal Register not less
13 than 30 days before transmitting its recommenda-
14 tions to the President pursuant to paragraph (2); and

15 “(iv) the Commission conducts public hearings
16 on the proposed change.

17 “(D) Subparagraph (C) applies to a change of the
18 Secretary’s recommendations that—

19 “(i) adds a military installation to the list of
20 military installations recommended by the Secretary
21 for closure;

22 “(ii) adds a military installation to the list of
23 military installations recommended by the Secretary
24 for realignment; or

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1 “(iii) increases the extent of a realignment of a
2 particular military installation recommended by the
3 Secretary.”.

4 (f) PRESIDENTIAL ACTION.—Section 2903(e) of such
5 Act is amended—

6 (1) in paragraph (1), by striking out “July 15”
7 and inserting in lieu thereof “August 15”;

8 (2) in paragraph (3), by striking out the second
9 sentence;

10 (3) by striking out paragraph (4); and

11 (4) by redesignating paragraph (5) as paragraph
12 (4) and, in such paragraph, by striking out “or (4)
13 by September 1” and inserting in lieu thereof
14 “August 15”.

15 (g) ENVIRONMENTAL RESTORATION AND MITIGATION.—
16 Section 2905(a)(1)(C) of such Act is amended by striking
17 out “or funds” and all that follows through “mitigation”.

18 (h) MILITARY INSTALLATION DEFINED.—(1) Section
19 2910(4) of such Act is amended by inserting at the end the
20 following: “Such term does not include any facility used
21 primarily for civil works, rivers and harbors projects, flood
22 control, or other projects not under the primary jurisdiction
23 or control of the Department of Defense.”.

24 (2) The amendment made by paragraph (1) shall take
25 effect as of November 5, 1990, and shall apply as if it had

1 been included in section 2910(4) of Public Law 101-510
2 on that date.

3 (i) PROHIBITION AGAINST RESTRICTING COMMUNICA-
4 TIONS WITH THE COMMISSION.—The Defense Base Closure
5 and Realignment Act is further amended by adding at the
6 end the following new section:

7 "SEC. 2912. COMMUNICATIONS WITH THE COMMISSION

8 "Section 1034 of title 10, United States Code, applies
9 with respect to communications with the Defense Base
10 Closure and Realignment Commission."

11 (j) NO AUTHORITY TO WITHHOLD INFORMATION.—
12 Nothing in this section or in the Defense Base Closure and
13 Realignment Act of 1990 shall be construed to authorize
14 the withholding of information from Congress, any com-
15 mittee or subcommittee of Congress, or the Comptroller
16 General of the United States.

17 SEC. 29___. CONSISTENCY IN BUDGET DATA.

18 (a) MILITARY CONSTRUCTION FUNDING REQUESTS.—In
19 the case of each military installation considered for closure
20 or realignment by the Commission, the Secretary of De-
21 fense shall ensure, subject to subsection (b), that the
22 amount of the authorization requested by the Department
23 of Defense for each military construction project in each of
24 fiscal years 1992 through 1999 for the following fiscal
25 year does not exceed the estimate of the cost of such

1 project (adjusted as appropriate for inflation) that was pro-
2 vided to the Commission by the Department of Defense.

3 (b) EXPLANATION FOR INCONSISTENCIES.—If, in any
4 fiscal year referred to in subsection (a), the Secretary de-
5 termines that it is necessary to submit to Congress a re-
6 quest for the authorization of a military construction
7 project referred to in that subsection in an amount that ex-
8 ceeds the estimated cost referred to for that project in that
9 subsection, the Secretary may submit the request for that
10 amount, but shall also submit with that request a complete
11 explanation of the reasons for the difference between the
12 requested amount and that estimated cost.

13 (c) DOD INSPECTOR GENERAL'S INVESTIGATION.—(1)
14 In each fiscal year referred to in subsection (a), the Inspec-
15 tor General of the Department of Defense shall investigate
16 an appropriate sample of the military construction projects
17 for which the Secretary is required to submit an explana-
18 tion to Congress under subsection (b) in that fiscal year.

19 (2) The Inspector General shall determine, with re-
20 spect to each investigated project, the following matters:

21 (A) Why the amount requested to be authorized
22 in the case of that project exceeds the estimated cost
23 of such project that was submitted to the Commis-
24 sion by the Department of Defense.

1 (B) Whether the relevant information submitted
2 to the Commission with respect to that project was
3 inaccurate or incomplete in any material respect.

4 (3) The Inspector General shall report his findings to
5 the Secretary. The Secretary shall forward a copy of the
6 report to the congressional defense committees.

7 (d) DEFINITION.—In this section:

8 (1) The term “Commission” means the De-
9 fense Base Closure and Realignment Commission es-
10 tablished by section 2901 of the Defense Base Clo-
11 sure and Realignment Act of 1990 (part A of title
12 XXIX of Public Law 101-510; 10 U.S.C. 2687
13 note).

14 (2) The term “military installation considered
15 for closure or realignment by the Commission”
16 means a military installation that has been identified
17 as a candidate or an alternative candidate for closure
18 or realignment by the Commission during the Com-
19 mission’s deliberations pursuant to section 2903(d)
20 of such Act.

21 SEC. 29___, REPORT ON PROPOSED USE OF FUNDS FROM THE
22 BASE CLOSURE ACCOUNT.

23 (a) IDENTIFICATION OF BASE CLOSURE ACCOUNT
24 PROJECTS.—In the documents provided to Congress by the
25 Secretary of Defense in support of the budget submitted to

1 Congress under section 1105 of title 31, United States
2 Code, for each of fiscal years 1993 through 1999, the Sec-
3 retary shall identify each military construction project pro-
4 posed in such budget to be paid for out of funds in the
5 Department of Defense Base Closure Account 1990.

6 (b) INAPPLICABILITY TO MINOR PROJECTS.—Subsection
7 (a) does not apply to a project in an amount not in excess
8 of the maximum amount specified in section 2805(a)(1) of
9 title 10, United States Code, relating to minor construction
10 projects.

11 (c) DEPARTMENT OF DEFENSE BASE CLOSURE ACCOUNT
12 1990.—The Department of Defense Base Closure Account
13 1990 referred to in subsection (a) is the account estab-
14 lished by section 2906(a)(1) of the Defense Base Closure
15 and Realignment Act of 1990 (part A of title XXIX of
16 Public Law 101-510; 10 U.S.C. 2687 note).

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