

112TH CONGRESS  
2D SESSION

# S. 3663

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

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IN THE SENATE OF THE UNITED STATES

DECEMBER 6, 2012

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

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## A BILL

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

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. LIMITATIONS ON BASE CLOSURE AND RE-**  
4 **ALIGNMENT ACTIVITIES AND CRITERIA FOR**  
5 **CERTAIN DECISIONS INVOLVING SUCH AC-**  
6 **TIVITIES.**

7 (a) FINDINGS.—Congress makes the following find-  
8 ings:

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

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

7           (3) Congress has not approved additional  
8 rounds of base closure and realignment to occur  
9 after 2005, and recognizes that the 2005 round in-  
10 curred substantial costs that will not be offset by  
11 savings for nearly two decades.

12           (4) According to the Government Accountability  
13 Office, implementation of the 2005 round of defense  
14 base closure and realignment cost \$35,100,000,000,  
15 or approximately \$14,100,000,000 more than was  
16 estimated by the 2005 Base Closure and Realign-  
17 ment Commission.

18           (5) Furthermore, the Government Account-  
19 ability Office has determined that the 2005 round of  
20 defense base closure and realignment will take 17  
21 years before taxpayers realize net savings from the  
22 round.

23           (6) On March 8, 2012, defending the request  
24 for additional rounds of defense base closure and re-  
25 alignment in testimony before the Committee on

1 Armed Services of the House of Representatives, Dr.  
2 Dorothy Robyn, Deputy Undersecretary of Defense  
3 for Installations and Environment, asserted that the  
4 Department of Defense would close military installa-  
5 tions using non-BRAC authorities, stating that “if  
6 Congress does not authorize additional BRAC  
7 rounds the department will be forced to use its exist-  
8 ing authorities to begin to realign and close bases”.

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

14 (8) Section 2687 of title 10, United States  
15 Code, contains ambiguous language, leading the De-  
16 partment of Defense to pursue significant closures  
17 and realignments without congressional approval or  
18 an authorization for a round of defense base closure  
19 and realignment.

20 (9) Sections 2687 and 993 of title 10, United  
21 States Code, contain single action limits on reduc-  
22 tions that are too easily circumvented by cumulative  
23 actions.

24 (10) As demonstrated by BRAC and other clo-  
25 sure and realignment actions, base closures and re-

1 alignments can have significant effects on Depart-  
2 ment of Defense functions, current and future oper-  
3 ational capabilities, and on host communities and  
4 States.

5 (11) Recommendations for closures and realign-  
6 ments should be carried out only with the consent of  
7 Congress, which has the constitutional responsibility  
8 to “raise and support Armies,” “provide and main-  
9 tain a Navy,” “make Rules for the Government and  
10 Regulation of the land and naval Forces,” and “pro-  
11 vide for organizing, arming, and disciplining, the Mi-  
12 litia, and for governing such Part of them as may  
13 be employed in the Service of the United States”.

14 (b) LIMITATIONS ON BASE CLOSURE AND REALIGN-  
15 MENT ACTIVITIES.—Section 2687 of title 10, United  
16 States Code, is amended—

17 (1) in subsection (a)—

18 (A) in paragraph (1), by striking “at  
19 which at least 300 civilian personnel are au-  
20 thorized to be employed”;

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

23 “(2) any realignment with respect to any mili-  
24 tary installation involving a reduction in the number  
25 of military and civilian personnel authorized to be

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

6 “(A) 100; or

7 “(B) 50 percent of the highest number of  
8 military and civilian personnel assigned to such  
9 installation during any of the previous 4 years;  
10 or”; and

11 (C) in paragraph (3)—

12 (i) by striking “other than a military  
13 installation referred to in clause (1) or  
14 (2)”;

15 (ii) by inserting “military or” before  
16 “civilian personnel”; and

17 (iii) by striking “to which clause (1)  
18 or (2)” and inserting “to which paragraph  
19 (1) or (2)”;

20 (2) in subsection (b)—

21 (A) by striking “referred to in such sub-  
22 section”;

23 (B) in paragraph (1)—

24 (i) by striking “or the Secretary of  
25 the military department concerned”;

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

4                   (iii) by inserting before subparagraph  
5                   (B), as redesignated by clause (ii), the fol-  
6                   lowing new subparagraph:

7                   “(A) a justification for the proposed ac-  
8                   tion;”;

9                   (iv) in subparagraph (B), as so redesi-  
10                   gnated, by striking “; and” and inserting  
11                   a semicolon;

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

15                   “(C) a description of the alternatives con-  
16                   sidered;”;

17                   (vi) in clause (ii) of subparagraph  
18                   (D), as so redesignated, by striking “;  
19                   and” and inserting a semicolon; and

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

23                   “(E) an estimate of the number of mili-  
24                   tary, civilian, and contractor personnel affected  
25                   by the proposed action; and

1           “(F) a plan to provide support for affected  
2 communities; and”;

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

5           “(2) Congress has enacted legislation expressly  
6 authorizing the action.”;

7           (3) in subsection (c)—

8           (A) by striking “shall not apply to the clo-  
9 sure” and inserting the following: “shall not  
10 apply—

11 “(1) to the closure”;

12           (B) by striking “or a military emergency.”  
13 and inserting “or a military emergency; or”;  
14 and

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

17           “(2) to the relocation from a military installa-  
18 tion of personnel or functions that are required to  
19 support the deployment of members of the armed  
20 forces, provided that such personnel and functions  
21 are returned to the military installation after the de-  
22 ployment.”;

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

1 ing in this section” and inserting “Nothing in this  
2 section”;

3 (5) in subsection (e)—

4 (A) in paragraph (1), by inserting “and  
5 any public land under Bureau of Land Manage-  
6 ment control that is withdrawn and reserved for  
7 military training and testing” after “including  
8 any leased facility”;

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

11 “(3) The term ‘realignment’ includes any action  
12 or combination of actions within a 4-year period that  
13 reduces or relocates functions and military or civil-  
14 ian personnel positions, but does not include a re-  
15 duction in force resulting from a reduction in mili-  
16 tary end strength levels or a reduction in total civil-  
17 ian personnel levels.”;

18 (C) by striking paragraph (4); and

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

21 “(4) The term ‘closure’ includes any action or  
22 combination of actions that results in the elimination  
23 of all active functions at a military installation, the  
24 elimination of all military and civilian personnel po-



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

3               (6) by adding at the end the following new sub-  
4       sections:

5       “(g) For purposes of this section, the component  
6       bases of a joint base shall be considered as independent  
7       military installations, and not collectively as a single mili-  
8       tary installation.

9       “(h) For purposes of this section, any leased space  
10       in which more than 300 combined military and civilian  
11       personnel are housed shall be considered to be an inde-  
12       pendent military installation, and shall not be considered  
13       part of a larger military installation. Functions and per-  
14       sonnel located at a leased space may be transferred to an-  
15       other leased space located within 50 miles or to the near-  
16       est military installation located within 50 miles notwith-  
17       standing any limitations in this section.”.

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