

110TH CONGRESS  
1ST SESSION

# S. 1902

To limit cost growth associated with major defense base closures and realignments implemented as part of the 2005 round of defense base closure and realignment.

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IN THE SENATE OF THE UNITED STATES

JULY 30, 2007

Mr. MENENDEZ (for himself and Mr. LAUTENBERG) introduced the following bill; which was read twice and referred to the Committee on Armed Services

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## A BILL

To limit cost growth associated with major defense base closures and realignments implemented as part of the 2005 round of defense base closure and realignment.

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. SHORT TITLE.**

4       This Act may be cited as the “BRAC Cost Overruns  
5       Protection Act of 2007” or the “BRAC COP Act of  
6       2007”.

1 **SEC. 2. LIMITATION ON COST GROWTH ASSOCIATED WITH**  
 2 **2005 ROUND OF DEFENSE BASE CLOSURE**  
 3 **AND REALIGNMENT.**

4 The Defense Base Closure and Realignment Act of  
 5 1990 (part A of title XXIX of Public Law 101–510; 10  
 6 U.S.C. 2687 note) is amended by adding at the end the  
 7 following new section:

8 **“SEC. 2915. LIMITATION ON COST GROWTH APPLICABLE TO**  
 9 **MAJOR CLOSURES AND REALIGNMENTS**  
 10 **UNDER 2005 ROUND.**

11 **“(a) SEMIANNUAL REPORT ON IMPLEMENTATION**  
 12 **COSTS.—**

13 **“(1) IN GENERAL.—**Not later than October 7,  
 14 2007, and every 180 days thereafter, the Secretary  
 15 of Defense shall submit to the congressional defense  
 16 committees a report on the costs of implementing  
 17 the recommendations of the Commission contained  
 18 in the report transmitted to Congress on September  
 19 15, 2005, under section 2903(e) that relate to clo-  
 20 sures and realignments that have not been fully im-  
 21 plemented.

22 **“(2) ESTIMATES REQUIRED.—**Each report sub-  
 23 mitted under paragraph (1) shall include, for each  
 24 individual recommended major base closure or re-  
 25 alignment—

1           “(A) the baseline estimate of one-time im-  
2           plementation costs; and

3           “(B) the current estimate of one-time im-  
4           plementation costs, including any increase at-  
5           tributable to actual or anticipated costs due to  
6           inflation.

7           “(b) SPECIAL PROCEDURES REQUIRED TO ADDRESS  
8 CERTAIN COST INCREASES.—

9           “(1) NOTIFICATION REQUIREMENT.—In the  
10          event that the Secretary of Defense determines,  
11          based on a report prepared under subsection (a),  
12          that the current estimate of one-time implementa-  
13          tion costs for an individual major base closure or re-  
14          alignment is at least 25 percent greater than the  
15          baseline estimate of one-time implementation costs  
16          for such closure or realignment (in this section re-  
17          ferred to as a ‘substantially over budget major base  
18          closure or realignment’), the Secretary shall prompt-  
19          ly provide notification of such determination, includ-  
20          ing the amount of the expected increase and the  
21          date the determination was made, to the chairman  
22          and ranking member of each of the congressional de-  
23          fense committees.

24          “(2) BUSINESS PLAN TO CONTROL COSTS.—

25          The Secretary of Defense shall develop a business

1 plan to reduce the costs of any individual substan-  
2 tially over budget major base closure or realignment  
3 to a level less than 25 percent greater than the base-  
4 line estimate for such closure or realignment.

5 “(c) IMPLEMENTATION OF SUBSTANTIALLY OVER  
6 BUDGET MAJOR BASE CLOSURES AND REALIGNMENTS.—

7 “(1) RECOMMENDATIONS.—Not later than 45  
8 days after an individual base closure or realignment  
9 is identified in a report required under subsection  
10 (a) as a substantially over budget major base closure  
11 or realignment, the Secretary of Defense shall sub-  
12 mit to the President a recommendation regarding  
13 whether to continue implementation of such closure  
14 or realignment.

15 “(2) JUSTIFICATION REQUIRED.—In the event  
16 the Secretary recommends that an individual sub-  
17 stantially over budget major base closure or realign-  
18 ment should continue to be implemented despite the  
19 excessive cost overruns, the Secretary shall include  
20 the justification for continuing such closure or re-  
21 alignment.

22 “(3) REPORT TO CONGRESS.—Not later than  
23 30 days after receiving a recommendation regarding  
24 whether to continue implementation of an individual  
25 substantially over budget major base closure or re-

1 alignment under paragraph (1), the President shall  
2 submit to Congress a report including the rec-  
3 ommendation of the President regarding the imple-  
4 mentation of such closure or realignment.

5 “(4) CONGRESSIONAL DISAPPROVAL.—

6 “(A) IN GENERAL.—The Secretary of De-  
7 fense may not continue or discontinue the im-  
8 plementation of an individual substantially over  
9 budget major base closure or realignment rec-  
10 ommended by the President under paragraph  
11 (3) if a joint resolution is enacted, in accord-  
12 ance with the provisions of subsection (d), dis-  
13 approving such recommendation of the Presi-  
14 dent before the earlier of—

15 “(i) the end of the 45-day period be-  
16 ginning on the date on which the President  
17 submits to Congress a report under para-  
18 graph (3) that includes a recommendation  
19 regarding the implementation of an indi-  
20 vidual substantially over budget major base  
21 closure or realignment; or

22 “(ii) the adjournment of Congress  
23 sine die for the session during which such  
24 report is submitted.

1                   “(B) COMPUTATION OF PERIOD.—For pur-  
 2                   poses of subparagraph (A) of this paragraph  
 3                   and paragraphs (1) and (2) of subsection (d),  
 4                   the days on which either House of Congress is  
 5                   not in session because of an adjournment of  
 6                   more than three days to a day certain shall be  
 7                   excluded in the computation of a period.

8                   “(d) CONGRESSIONAL CONSIDERATION OF REC-  
 9                   ommendation Regarding Implementation of Sub-  
 10                  stantially Over Budget Major Base Closures or  
 11                  REALIGNMENT.—

12                  “(1) TERMS OF THE RESOLUTION.—For pur-  
 13                  poses of subsection (c)(4), the term ‘joint resolution’  
 14                  means only a joint resolution which is introduced  
 15                  within the 10-day period beginning on the date on  
 16                  which the President submits to Congress a report  
 17                  under subsection (c)(3) that includes a recommenda-  
 18                  tion regarding the implementation of a substantially  
 19                  over budget major base closure or realignment,  
 20                  and—

21                         “(A) which does not have a preamble;

22                         “(B) the matter after the resolving clause  
 23                         of which is as follows: ‘That Congress dis-  
 24                         approves the recommendation of the President  
 25                         on \_\_\_\_\_ with respect to

1 \_\_\_\_\_', the blank spaces being filled in  
2 with the appropriate date and the name of a  
3 military installation or other information that  
4 identifies the individual closure or realignment,  
5 respectively; and

6 “(C) the title of which is as follows: ‘Joint  
7 resolution disapproving the recommendation of  
8 the President regarding implementation of a  
9 substantially over budget major base closure or  
10 realignment.’.

11 “(2) REFERRAL.—A resolution described in  
12 paragraph (1) that is introduced in the House of  
13 Representatives shall be referred to the Committee  
14 on Armed Services of the House of Representatives.  
15 A resolution described in paragraph (1) introduced  
16 in the Senate shall be referred to the Committee on  
17 Armed Services of the Senate.

18 “(3) DISCHARGE.—If the committee to which a  
19 resolution described in paragraph (1) is referred has  
20 not reported such resolution (or an identical resolu-  
21 tion) by the end of the 20-day period beginning on  
22 the date on which the President submits to Congress  
23 a report under subsection (c)(3) that includes a rec-  
24 ommendation regarding the implementation of a  
25 substantially over budget major base closure or re-

1 alignment, such committee shall be, at the end of  
2 such period, discharged from further consideration  
3 of such resolution, and such resolution shall be  
4 placed on the appropriate calendar of the House in-  
5 volved.

6 “(4) CONSIDERATION.—

7 “(A) IN GENERAL.—On or after the third  
8 day after the date on which the committee to  
9 which such a resolution is referred has re-  
10 ported, or has been discharged (under para-  
11 graph (3)) from further consideration of, such  
12 a resolution, it is in order (even though a pre-  
13 vious motion to the same effect has been dis-  
14 agreed to) for any Member of the respective  
15 House to move to proceed to the consideration  
16 of the resolution. A Member may make the mo-  
17 tion only on the day after the calendar day on  
18 which the Member announces to the House con-  
19 cerned the Member’s intention to make the mo-  
20 tion, except that, in the case of the House of  
21 Representatives, the motion may be made with-  
22 out such prior announcement if the motion is  
23 made by direction of the committee to which  
24 the resolution was referred. All points of order  
25 against the resolution (and against consider-



1           ation of the resolution) are waived. The motion  
2           is highly privileged in the House of Representa-  
3           tives and is privileged in the Senate and is not  
4           debatable. The motion is not subject to amend-  
5           ment, or to a motion to postpone, or to a mo-  
6           tion to proceed to the consideration of other  
7           business. A motion to reconsider the vote by  
8           which the motion is agreed to or disagreed to  
9           shall not be in order. If a motion to proceed to  
10          the consideration of the resolution is agreed to,  
11          the respective House shall immediately proceed  
12          to consideration of the joint resolution without  
13          intervening motion, order, or other business,  
14          and the resolution shall remain the unfinished  
15          business of the respective House until disposed  
16          of.

17               “(B) DEBATE.—Debate on the resolution,  
18               and on all debatable motions and appeals in  
19               connection therewith, shall be limited to not  
20               more than 2 hours, which shall be divided  
21               equally between those favoring and those oppos-  
22               ing the resolution. An amendment to the resolu-  
23               tion is not in order. A motion further to limit  
24               debate is in order and not debatable. A motion  
25               to postpone, or a motion to proceed to the con-

1       sideration of other business, or a motion to re-  
 2       commit the resolution is not in order. A motion  
 3       to reconsider the vote by which the resolution is  
 4       agreed to or disagreed to is not in order.

5       “(C) VOTE ON FINAL PASSAGE.—Imme-  
 6       diately following the conclusion of the debate on  
 7       a resolution described in paragraph (1) and a  
 8       single quorum call at the conclusion of the de-  
 9       bate if requested in accordance with the rules of  
 10      the appropriate House, the vote on final pas-  
 11      sage of the resolution shall occur.

12      “(D) APPEALS.—Appeals from the deci-  
 13      sions of the Chair relating to the application of  
 14      the rules of the Senate or the House of Rep-  
 15      resentatives, as the case may be, to the proce-  
 16      dure relating to a resolution described in para-  
 17      graph (1) shall be decided without debate.

18      “(5) CONSIDERATION BY OTHER HOUSE.—

19      “(A) PROCEDURES.—If, before the passage  
 20      by one House of a resolution of that House de-  
 21      scribed in paragraph (1), that House receives  
 22      from the other House a resolution described in  
 23      paragraph (1), then the following procedures  
 24      shall apply:

1                   “(i) The resolution of the other House  
 2                   shall not be referred to a committee and  
 3                   may not be considered in the House receiv-  
 4                   ing it except in the case of final passage as  
 5                   provided in clause (ii)(II).

6                   “(ii) With respect to a resolution de-  
 7                   scribed in paragraph (1) of the House re-  
 8                   ceiving the resolution—

9                   “(I) the procedure in that House  
 10                  shall be the same as if no resolution  
 11                  had been received from the other  
 12                  House; but

13                  “(II) the vote on final passage  
 14                  shall be on the resolution of the other  
 15                  House.

16                  “(B) DISPOSITION.—Upon disposition of  
 17                  the resolution received from the other House, it  
 18                  shall no longer be in order to consider the reso-  
 19                  lution that originated in the receiving House.

20                  “(6) RULES OF THE SENATE AND HOUSE.—  
 21                  This section is enacted by Congress—

22                  “(A) as an exercise of the rulemaking  
 23                  power of the Senate and House of Representa-  
 24                  tives, respectively, and as such it is deemed a  
 25                  part of the rules of each House, respectively,

1 but applicable only with respect to the proce-  
2 dure to be followed in that House in the case  
3 of a resolution described in paragraph (1), and  
4 it supersedes other rules only to the extent that  
5 it is inconsistent with such rules; and

6 “(B) with full recognition of the constitu-  
7 tional right of either House to change the rules  
8 (so far as relating to the procedure of that  
9 House) at any time, in the same manner, and  
10 to the same extent as in the case of any other  
11 rule of that House.

12 “(e) DEFINITIONS.—In this Act:

13 “(1) MAJOR BASE CLOSURE OR REALIGN-  
14 MENT.—The term ‘major base closure and realign-  
15 ment’ means any base closure or realignment that  
16 requires \$150,000,000 or more in military construc-  
17 tion costs and an overall, one-time implementation  
18 cost of \$300,000,000 or more.

19 “(2) BASELINE ESTIMATE OF ONE-TIME IMPLE-  
20 MENTATION COSTS.—The term ‘baseline estimate of  
21 one-time implementation costs’ means the applicable  
22 cost set forth in the Cost of Base Realignment Ac-  
23 tions (COBRA) report used and released by the Sec-  
24 retary of Defense at the time the Secretary pub-  
25 lished in the Federal Register and transmitted to the

1 congressional defense committees and the Commis-  
2 sion the initial list of recommendations for closure or  
3 realignment of military installations under section  
4 2914(a).”.

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