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BACKGROUNDER

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Guidelines for a Better—and Necessary—Round of BRAC

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Abstract

President Trump's 2018 budget request asked Congress to authorize a new round of Base Realignment and Closure (BRAC). Six years in a row, Congress denied that authorization. Despite Congress's intransigence, the need for base closures and realignment is not going away. The Department of Defense has approximately 20 percent excess infrastructure, and the best way to reduce this excess capacity is through a new round of BRAC. This Backgrounder *details BRAC successes, and what can be done better in the next round.*

In President Donald Trump's budget request for fiscal year (FY) 2018, he asked Congress to authorize a new round of Base Realignment and Closure (BRAC). For the sixth year in a row, Congress denied that authorization. Despite Congress's intransigence, the need for base closures and realignment is not going away. The Department of Defense (DOD) has approximately 20 percent excess infrastructure,[1] and the best way to reduce this excess capacity is through a new round of BRAC.

Congress and the executive branch will have to work harder and be smarter than previous rounds in order to obtain the authorization for a new round. Following are proposed changes to the BRAC process with the aim of accommodating the concerns expressed by Congress while preserving the successes of past BRAC rounds.

Historically, there have been multiple attempts, with varying degrees of success, to close and realign excess military infrastructure—from outright closures during Secretary of Defense Robert McNamara's time, to the reporting requirements that lead to the de facto prohibition of base closures, to the passage of the Base Closure Act in 1988.

Key Points

- For six years, Congress has rejected a new round of Base Realignment and Closure (BRAC). Every year that Congress denies the authorization represents more wasted taxpayer dollars on unneeded infrastructure.
- BRAC is the best process for managing DOD infrastructure. But, there are real shortcomings that have led Congress to reject the authorization. Congress needs to work with the DOD to address them.
- BRAC reform should require more accurate data on base usage, lift restrictions on DOD real estate actions, have a permanent BRAC staff, and establish reduction targets for every round.
- A new BRAC round can increase the Armed Forces' readiness, while saving taxpayer dollars. Congress will have to address the DOD's real estate infrastructure in the coming years. It is better to do so through a new BRAC round.

This paper, in its entirety, can be found at **http://report.heritage.org/bg3257**

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The process created in the Base Closure Act led to what is now known as BRAC.[2] From these experiences, BRAC "has emerged as the only fair, objective, and proven process for closing and realigning military installations in the United States."[3] BRAC has been successful in aligning military infrastructure with the structure of the armed forces, increasing readiness and military value, reducing excess infrastructure, and generating savings for the American taxpayer.

Nonetheless, the process has its shortcomings that need to be addressed through legislative changes. It is especially important to gather more accurate data for evaluating the need for a new round, to lift some of the restrictions faced by the DOD on its own real estate actions, to have a permanent BRAC staff, and to establish reduction targets for every round.

Why Does BRAC Exist?

The executive and the legislative branches created BRAC as a compromise to accommodate their interests and perspectives in assessing the value of domestic military bases. The process reconciles two competing views of the world. The executive focuses, ideally, on its vision of the whole government and the military, while the legislative has an obligation to represent the people of the United States, which can at times include maintaining military bases regardless of their military value.

The power to close or realign a military base lies with the President as the commander in chief.[4] However, Congress has a role to play in providing any funding associated with changes to bases. Historically, Congress has employed control of funding as a means to stop proposed base closures.

When the DOD first initiated closures and realignment to reduce its basing infrastructure in the 1960s and 1970s, the process was centralized in the military services and the DOD. It resulted in an insulated process with little input from other sources. The Government Accountability Office (GAO) explains that the initial closures resulted in legislative pushback that ultimately came to impose reporting requirements on the executive's authority.[5] The legitimate concerns expressed by the lawmakers were on the perceived usage of closures to guide votes toward DOD preferences. This explains why the current BRAC process and the legislative limitations bend toward more transparency and public input. Thus, the "extent of these base closure actions, with the cumulative economic impact and the lack of oversight of the decision-making process, fostered concern about the fairness of the process and set the stage for congressional resistance to future base closures."[6]

Congress enacted further limits on the executive's powers through reporting rules that determine how real estate can be disposed by the DOD, enshrined in law through 10 U.S. Code § 2687 (1977) and 10 U.S. Code § 993 (2011). The current legislation dictates that if more than 300 civilian personnel are authorized to work in an installation, the Secretary of Defense cannot close the installation unless both Armed Services Committees are notified during the annual appropriations process. Additionally, the DOD has to submit an evaluation of the criteria used to determine whether the facility should be closed, and of the consequences of the closure. Finally, the DOD must wait either 30 legislative or 60 calendar days from the time the evaluation and the notice are submitted to Congress before taking action to begin closing the base.

A similar restriction exists for reduction actions that involve more than 1,000 uniformed members of the armed forces. The process' design provides a very

1. U.S. Department of Defense, "Department of Defense Infrastructure Capacity," March 2016, http://defensecommunities.org/wp-content/uploads/2015/01/2016-4-Interim-Capacity-Report-for-Printing.pdf (accessed August 15, 2017).
2. George Schlossberg, "How Congress Cleared the Bases: A Legislative History of BRAC," *Journal of Defense Communities*, Vol. 1 (2012), http://monterey.org/Portals/0/TheMontereyModel/Literature/BRAC-History.pdf (accessed August 15, 2017).
3. Peter Potochney, "Fiscal Year 2018 Department of Defense Budget Request for Energy, Installations, and Environment," testimony before the Subcommittee on Military Construction, Veterans Affairs, and Related Agencies, Committee on Appropriations, U.S. Senate, June 6, 2017, https://www.appropriations.senate.gov/imo/media/doc/060617-Potochney-Testimony.pdf (accessed August 10, 2017).
4. Daniel H. Else, "Military Base Closures: Frequently Asked Questions," Congressional Research Service *Report for Congress*, March 19, 2014, https://fas.org/sgp/crs/natsec/R43425.pdf (accessed August 7, 2017).
5. U.S. General Accounting Office, "Military Bases: Lessons Learned from Prior Base Closure Rounds," *GAO Report*, July 1997, http://www.gao.gov/products/NSIAD-97-151 (accessed August 7, 2017).
6. Ibid., p. 14.

high level of visibility to the proposed closure and realignment. This visibility invites congressional opponents of the action to throw their weight against it, dramatically raising the political cost of closing a facility. George Schlossberg, a former senior counsel to the Secretary of Defense, has pointed out that the

> enactment of section 2687 throttled base closures; the extensive statutory reports required by the law provide ample time and opportunity for court challenges on environmental grounds, or as to the sufficiency of particular studies. Moreover, long delays permit communities to rouse Congress. In fact, DOD was unsuccessful in closing any major bases during the decade preceding enactment of Base Closure Act I.[7]

The Base Closure Act I was the authorizing legislation that created the first round of base closures and realignments in 1988. It provided the seeds for the process that became BRAC. This act, which provided the framework of the BRAC process and its independent commission, changed the political dynamics encountered by the DOD's proposals to close domestic military bases.

What Goes into a BRAC Round?

A BRAC round has three different periods, each with its own pace and duration. It starts with the internal DOD work to develop the list of recommendations for closures and realignments. This takes 18 months to 24 months, and in the current environment, must be explicitly authorized by Congress. The second portion of the process is the formation of the commission that will evaluate the list in order to inform the decisions of the President and of Congress. Both President and Congress need to approve the list at this point. This portion lasts nearly one year. The last part is the actual implementation of the actions approved by the commission, the President, and Congress. Historically, the DOD has six years to implement the approved actions.

The BRAC round that began in 2005 took almost 10 years to complete. The process started with authorization in the 2002 National Defense Authorization Act (NDAA), signed into law on December 28, 2001.[8] The NDAA amended the Defense Base Closure and Realignment Act of 1990 to include the authority for a new round in 2005.[9] Once the list has been settled, the "six-year implementation period for the 2005 approved realignment and closures ended on September 15, 2011."[10]

After Congress authorized the BRAC round for 2005, eight distinctive steps took place before the recommendations were implemented. Some of these steps took place concurrently, especially in the initial phases. Each of the steps augmented the transparency of the process and built upon the authorizing legislation's guidance.

For the 2005 round, there were eight selection criteria, four of these criteria related to the military value of installations, which are the ones most heavily weighted. The other four criteria related to societal impacts of facilities.[11] These criteria defined by the legislation that authorizes the round, are further developed and vetted by the DOD, and then made public in the *Federal Register*. These criteria changed through the different rounds of BRAC, especially between the 1995 and the 2005 rounds. For the 2005 criteria, see Table 1.

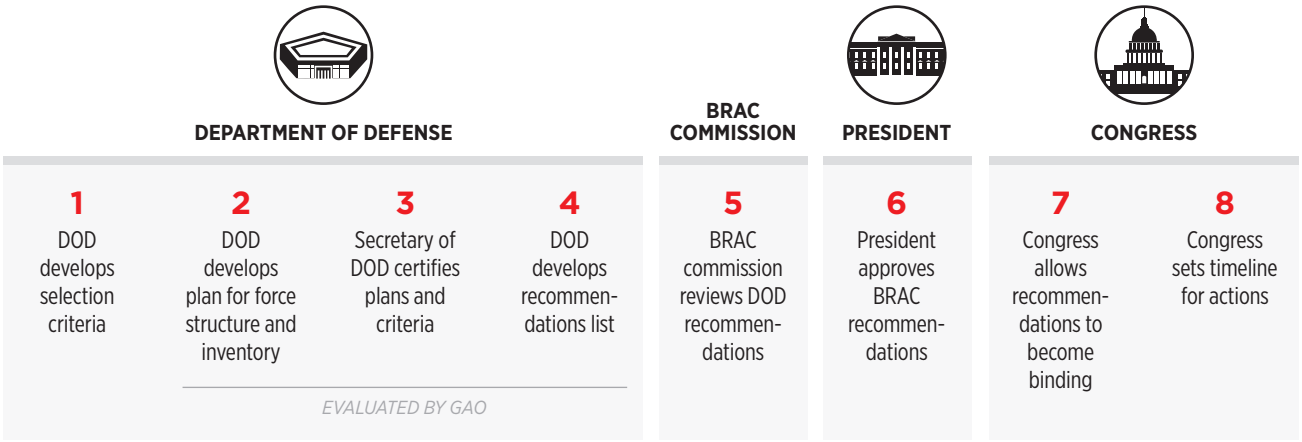
Congress determines the initial criteria and the DOD then publicizes them and accepts public commentary through the *Federal Register*. In fact, one of the current proposals to change the BRAC process proposes additional criteria.[12]

The DOD has the task of developing a force structure plan and an infrastructure inventory. Both plans ought to reflect a 20-year projection. The GAO

7. Schlossberg, "How Congress Cleared the Bases: A Legislative History of BRAC," p. 2.
8. National Defense Authorization Act for Fiscal Year 2002, Public Law 107–107.
9. Defense Base Closure and Realignment Act of 1990, Public Law 101–510.
10. U.S. Department of Defense, "DoD Base Realignment and Closure: BRAC Rounds (BRAC 1998, 1991, 1993, 1995 & 2005)," Executive Summary, FY 2018 Budget Estimates, Justification Data Submitted to Congress, May 2017, http://comptroller.defense.gov/Portals/45/Documents/defbudget/FY2018/budget_justification/pdfs/05_BRAC/FINAL_FY18_BRAC_Summary_Book.pdf (accessed August 9, 2017).
11. Brian J. Lepore, "Military Base Realignments and Closures: Key Factors Contributing to BRAC 2005 Results," testimony before the Subcommittee on Readiness, Committee on Armed Services, U.S. House of Representatives, March 8, 2012, http://www.gao.gov/products/GAO-12-513T (accessed August 8, 2017).
12. The Defense Force and Infrastructure Review Act of 2017, 115th Cong., 1st Sess.

FIGURE 1

Eight Steps for Base Realignment and Closures (BRAC)



SOURCE: Brian J. Lepore, "Military Base Realignments and Closures: Key Factors Contributing to BRAC 2005 Results," testimony before the Subcommittee on Readiness, Committee on Armed Services, U.S. House of Representatives, March 8, 2012, http://www.gao.gov/products/GAO-12-513T (accessed August 8, 2017).

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evaluates these documents. The GAO acts as an independent entity that helps both Congress and the BRAC Commission make a decision.[13]

Once the plans have been developed and reconciled with each other, the Secretary of Defense certifies that the specified bases do need to be closed or realigned to achieve greater efficiency and maintain military value. Currently, the assessment of infrastructure and force structure takes place during the beginning of a BRAC round. The assessment explores details of individual base usage and their strategic value, which has the potential to get the attention from the lawmakers that represents those bases. The GAO also evaluates this certification. A failure to certify terminates the authority for a new round.[14]

After the certification, the department develops specific recommendations for closures and realignments. This process, coordinated by the Secretary of Defense, has inputs from all services. Because of the transparency and objectivity required in the process of formulating an initial list of recommended actions, the GAO found that building the recommendation lists "can take between 18 months and 2 years."[15]

After the list of DOD recommendations has been completed and evaluated, the BRAC Commission is formed to independently evaluate and review them. The BRAC Commission and GAO both receive the BRAC recommendations for evaluation.[16] The commission has a limited amount of time—in 2005, it was four months—to make any changes to the list. The important function of the commission is to provide an opportunity for the public to express its opinions on the proposed actions and obtain a neutral party's evaluation of the process.

The commission then transmits its list to the President for evaluation and approval. If the President rejects the list, the commission has more time to re-work the elements that led to the rejection

13. U.S. Government Accountability Office, "Military Base Closures: Assessment of DOD's 2004 Report on the Need for a Base Realignment and Closure Round," *GAO Report*, May 17, 2004, http://www.gao.gov/products/gao-04-760 (accessed August 8, 2017).
14. Defense Base Closure and Realignment Act of 1990, Public Law 101-510. There are other off-ramps in the BRAC legislation, including the failure to nominate commissioners and not transmitting a list of recommendations in due time. At its core, a BRAC round is quite fragile due to its many off-ramps.
15. U.S. General Accounting Office, "Military Bases: Lessons Learned From Prior Base Closure Rounds," p. 16.
16. U.S. Government Accountability Office, "Military Bases: Analysis of DOD's 2005 Selection Process and Recommendations for Base Closures and Realignments," *GAO Report*, July 1, 2005, http://www.gao.gov/products/GAO-05-785 (accessed August 8, 2017).

TABLE 1

Selection Criteria for BRAC 2005

Listed in order of importance:

MILITARY VALUE

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

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

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

4 The cost of operations and the manpower implications.

OTHER CONSIDERATIONS

5 The extent and timing of potential costs and savings, including the number of years, beginning with the date of completion of the closure or realignment, with the goal of the savings exceeding the costs.

6 The economic impact on existing communities in the vicinity of military installations.

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

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

SOURCE: U.S. Department of Defense, "2005 Base Closure and Realignment Selection Criteria," memorandum, January 4, 2005, http://www.brac.gov/docs/criteria_final_jan4_05.pdf (accessed August 8, 2017).

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of the list. Once the President approves the list, he transmits the list to Congress.

Congress has 45 days to disapprove the list as a whole. Absent disapproval, the list becomes binding. Historically, every resolution of disapproval against BRAC has failed.[17] The last element before implementation is establishing a timeline for the execution of the recommended actions. Usually, Congress has allowed the DOD six years to implement the actions.

The steps described above were those used during the BRAC round that began in 2005, and are currently the law. In the 115th Congress, there are several proposals to change the BRAC process, mainly legislation presented by Representative Adam Smith (D–WA), Ranking Member of the House Armed Services Committee (HASC) and an amendment presented by Senators John McCain (R–AZ) and Jack Reed (D–RI), respectively, Chairman and Ranking Member of the Senate Armed Services Committee (SASC).[18] Nonetheless, they retain the general contours of BRAC—criteria transparency in a list developed by the DOD with guidance from Congress, assessed by a third party.

BRAC Is an Example of Efficiency in the Federal Government

According to the DOD, the previous five rounds of BRAC have saved the department more than $12 billion annually.[19] The 2005 round accounts for $4 bil-

17. Christopher M. Davis, "'Fast Track' Congressional Consideration of Recommendations of the Base Realignment and Closure (BRAC) Commission," Congressional Research Service *Report for Congress*, May 12, 2005, https://fas.org/sgp/crs/natsec/RS22144.pdf (accessed August 8, 2017).
18. Military Infrastructure Consolidation and Efficiency Act of 2017, H.R. 753, 115th Cong., 1st Sess., and Defense Force and Infrastructure Review Act of 2017, 115th Cong., 1st Sess.
19. U.S. Department of Defense, "Department of Defense Infrastructure Capacity."

lion of those savings. The savings generated through a BRAC round are recurring, derived from the reduction of fixed costs.

The process also allows the military to create more value for each taxpayer dollar. This is why when discussing the possibility of having a new round of BRAC, Secretary of Defense James Mattis stated, "[o]f all the efficiency measures the Department has undertaken over the years, BRAC is one of the most successful and significant—we forecast that a properly focused base closure effort will generate $2 billion or more annually."[20]

The BRAC process is an example of efficiency in the federal government. It distinguishes itself among federal actions due to the potential of reducing fixed costs, while maintaining military value and obtaining congressional approval for the closure of federal installations in Member districts. That the Department of Veterans Affairs (VA) says it needs a BRAC-like process when it describes the need to modify its infrastructure provides further evidence of the process' value. The VA carries a large inventory of real estate properties. It currently has multiple buildings that are underutilized, abandoned, or simply too deteriorated to serve veterans' needs. In 2017, Secretary of Veterans Affairs David Shulkin said that the VA would work with Congress to identify buildings to shutter and was considering using the BRAC process as a model.[21]

In 2015, "Veterans Affairs Department officials want[ed] their own version of a base closure round, targeting aging hospitals and clinics they no longer need."[22] Additionally, documents that propose substantial changes to how the VA conducts its business also feature a BRAC-like process to address the problem of excess real estate inventory at the VA.[23]

The BRAC process also contains multiple provisions that enable local communities to create a new use for the land that the military is vacating.[24] There are multiple examples of highly successful closed bases that now serve as a significant element of the economic base of that community. Christopher Preble, vice president for defense and foreign policy studies at the CATO Institute, highlights the transformation of the Bergstrom Air Force Base in Texas into the Austin-Bergstrom International Airport as a great example of what communities can do with former military sites.[25]

These types of transformations have taken place in many installations that have been through a BRAC process.[26] It is important for communities to look at the BRAC process not as a loss of a military installation, but as an opportunity to give new life and purpose to a facility no longer needed by the DOD. It is an important chance for both the DOD and the communities to improve the use of the installation.

Jerry Brito, a senior research fellow at the Mercatus Center, also lauds BRAC.[27] He points out the powerful political features of the BRAC model: an independent commission, a very narrowly defined mission, a disapproval requirement, and the accompanying political cover.

In this sense, BRAC is an example of an institutional arrangement that can overcome the parochial interests that normally dominate Congress. BRAC is a model worthy of being replicated through different sets of problems.

20. James Mattis, "Written State for the Record," testimony before the Committee on Armed Services, U.S. House of Representatives, June 12, 2017, http://docs.house.gov/meetings/AS/AS00/20170612/106090/HHRG-115-AS00-Bio-MattisJ-20170612.pdf (accessed August 8, 2017).
21. Ellen Mitchell, "VA Eyes Building Closures to Boost Care Under Trump," *The Hill*, May 24, 2017, http://thehill.com/policy/defense/334851-va-eyes-building-closures-to-boost-care-under-trump (accessed August 8, 2017).
22. Leo Shane III and Staff, "VA Looking at its Own Version of BRAC," *Military Times*, February 17, 2015, https://www.militarytimes.com/veterans/2015/02/17/va-looking-at-its-own-version-of-brac/ (accessed August 8, 2017).
23. Darin Selnick et al., "Fixing Veterans Health Care: A Bipartisan Policy Taskforce," Concerned Veterans for America, 2015, http://cv4a.org/wp-content/uploads/2016/01/Fixing-Veterans-Healthcare.pdf (accessed August 9, 2017).
24. R. Chuck Mason, "Base Realignment and Closure (BRAC): Transfer and Disposal of Military Property," Congressional Research Service *Report for Congress*, February 28, 2013, https://fas.org/sgp/crs/natsec/R40476.pdf (accessed August 9, 2017).
25. Christopher A. Preble, "Teaching Congress about the Benefits of Base Closures," *CATO at Liberty*, May 13, 2016, https://www.cato.org/blog/teaching-congress-about-benefits-base-closures (accessed August 9, 2017).
26. For some examples, see Samer Bagaeen and Celia Clark, *Sustainable Regeneration of Former Military Sites* (New York: Routledge, 2016).
27. Jerry Brito, "Running for Cover: The BRAC Commission as a Model for Federal Spending Reform," Mercatus Center *Working Paper* No. 10-23, May 2010, https://www.mercatus.org/system/files/WP1023_The-BRAC-Commission-as-a-Model-for-Spending-Reform-%282%29.pdf (accessed August 29, 2017).

The 2005 Round and Its Shortcomings

The GAO has evaluated the BRAC process and stated that "our conclusion that the BRAC process is sound does not preclude opportunities for improvement."[28] Many of these opportunities for improvement reside in addressing the shortcomings revealed in the last BRAC that began in 2005. Namely, the cost overruns associated with weak cost estimates, the amount of recommended actions, and their bundling, instead of being assessed individually.

When opposing current requests for authorizing a new round of BRAC, lawmakers have been quick to raise the point that the country cannot afford the up-front costs of another round.[29] It is a reflection of the increased costs of the 2005 round documented by the GAO.[30] Missing in these discussions is the fact that these cost increases were highly concentrated in a small number of proposed actions.

When the GAO examined the outcome of the 2005 actions, it found that 14 of 182 recommendations accounted for 72 percent of the cost increases, totaling about $10.2 billion.[31] Thus, the vast majority of the recommendations executed through BRAC did not incur cost overruns, suggesting the basic soundness of the process.

Additionally, of these 14 recommendations, the five recommendations that saw the biggest cost increase accounted for 60 percent of the increases.[32] These cost increases were concentrated in military construction, mainly because of misidentification of the needs and requirements for that installation. As stated by the GAO, "Military construction costs increased because after implementation began, DOD identified requirements for new construction projects as well as for additions to planned construction projects, which were not accounted for in the original cost estimates."[33]

Further, the 2005 round emphasized adapting the infrastructure to the force's new requirements rather than reducing the excess infrastructure, which distorted the results. Some have therefore referred to the 2005 BRAC round as transformational, not efficiency based. As pointed out by Jack Spencer, vice president of the Institute for Economic Freedom at The Heritage Foundation, when discussing the 2005 round, "BRAC is not just about closing and realigning bases, but also changing the way forces are supported."[34] In this regard, "BRAC 2005 served as an engine of recapitalization for enduring military facilities."[35] This approach comes with increased implementation costs, which are reflected in the initial estimates of the process.

When the Congressional Research Service assessed the cost of the 2005 round, it pegged it at $24.4 billion. This estimate was higher than the cost of all previous four rounds combined, which added up to $22 billion.[36] The main difference between the previous four rounds and 2005 was the number of minor actions.

The GAO describes that the "2005 round is unlike previous BRAC rounds because of OSD's [Office of the Secretary of Defense's] emphasis on transformation and jointness, rather than just reducing excess infrastructure."[37] The number of minor actions

28. U.S. Government Accountability Office, "Military Bases: Opportunities Exist to Improve Future Base Realignment and Closure Rounds," *GAO Report to Congressional Committees*, March 2013, p. 62, https://www.gao.gov/products/GAO-13-149 (accessed August 8, 2017).
29. Dianna Cahn, "Policy Experts Urge Congress to Back New Round of Base Realignments and Closures," *Stars and Stripes,* June 19, 2017, https://www.stripes.com/policy-experts-urge-congress-to-back-new-round-of-base-realignments-and-closures-1.474376#.WaCE2IGGPcs (accessed August 25, 2017).
30. U.S. Government Accountability Office, "Military Base Realignments and Closures: Updated Costs and Savings Estimates from BRAC 2005," *GAO Report to Congress*, June 29, 2012, http://www.gao.gov/products/GAO-12-709R (accessed August 10, 2017).
31. Ibid., pp. 4 and 5.
32. Ibid., pp. 6 and 7.
33. Ibid., p. 7.
34. Jack Spencer, "Making the 2005 BRAC a Success," The Heritage Foundation, March 29, 2005, http://www.heritage.org/defense/report/making-the-2005-brac-success.
35. U.S. Government Accountability Office, "Military Bases: Opportunities Exist to Improve Future Base Realignment and Closure Rounds," p. 53.
36. David E. Lockwood, "Military Base Closures: Implementing the 2005 Round," Congressional Research Service *Report for Congress*, June 1, 2005, https://fas.org/sgp/crs/natsec/RL32216.pdf (accessed September 1, 2017).
37. U.S. Government Accountability Office, "Military Base Realignments and Closures: DOD Is Taking Steps to Mitigate Challenges But Is Not Fully Reporting Some Additional Costs," *GAO Report to Congress*, July 21, 2010, p. 6, http://www.gao.gov/products/GAO-10-725R (accessed August 10, 2017).

taken during the 2005 round of BRAC reflects the emphasis on transformation of the physical infrastructure. Minor actions are defined as affecting an installation that is valued at less than $100 million, or at which fewer than 400 military and civilian personnel are affected.[38]

The number of minor actions reflects the hesitance of the DOD to use current authorities to close and realign installations, since the difference between a minor action and an allowed action is just 100 people in authorized personnel. Outside the BRAC context, these actions would have to be managed individually in Congress. Instead, the DOD compiled these actions in the BRAC process, which added considerably to the complexity and cost of the round.

In 2005, there were closures and realignments of multiple installations that were bundled together, decreasing the visibility on the impact of each action and making it considerably more challenging for the commission to evaluate the recommendation. Furthermore, some of these bundles were apparently used to obfuscate the real cost of the action recommended.[39]

Additionally, the model utilized by the DOD when estimating the costs of BRAC actions did not take all the necessary factors into account, especially when it came to information-technology requirements and contract-termination costs. Since the model is designed to be an aid in deciding between recommendations, versus a cost-estimating tool, it fails to provide complete costs of proposed actions. This shortfall led to the underestimation of overall costs.[40]

All these shortcomings contributed to make the 2005 round the "biggest, most complex, and costliest BRAC round ever."[41] The ambition and complexity was detrimental to the process, as it makes it considerably harder for the oversight institutions to do their jobs properly. Future BRAC rounds should be less ambitious, both in actions and in cost and more predictable in order to address the problems that appeared in 2005.

Challenges in the BRAC Process

After the last round ended in 2015, Congress adopted a risk-averse position on base closures, which is to deny every one of them, as reported by Dr. Brian Kehl, an Air Force captain whose doctoral dissertation focused on the political economy of BRAC.[42] The fact that there were problems concerning the cost and delayed timeline as documented by the GAO only provided further ammunition for Congress.[43] Therefore, it has taken considerable effort to sway Congress' preference to authorize a new round of BRAC, and the DOD has been trying to obtain approval for a sixth round for five years now.

The President's DOD budget request for FY 2018 included a request for a new round in 2021. As characterized by the then-Acting Assistant Secretary of Defense for Energy, Installations and Environment: "The Department urges Congress to authorize one new round of base closures and realignments, in 2021, using the statutory commission process that has proven, repeatedly, to be the only effective and fair way to eliminate excess DoD infrastructure and to reconfigure what must remain."[44]

Given repeated congressional resistance, it is important that the DOD collaborate with Congress to modify the current BRAC process to assure that the cost overruns and delays experienced in the 2005 round cannot occur again. The main challeng-

38. U.S. Government Accountability Office, "Military Bases: Opportunities Exist to Improve Future Base Realignment and Closure Rounds," *GAO Report to Congressional Committees*, March 2013, https://www.gao.gov/products/GAO-13-149 (accessed August 31, 2017).
39. Ibid., p. 45.
40. Ibid.
41. U.S. Government Accountability Office, "Military Base Realignments and Closures: DOD Is Taking Steps to Mitigate Challenges But Is Not Fully Reporting Some Additional Costs."
42. Brian T. Kehl, "The Pentagon vs. Congress: The Political Economy of Military Base Closures During BRAC," August 13, 2003 (unpublished PhD dissertation, George Mason University), http://handle.dtic.mil/100.2/ADA416525 (accessed August 31, 2017).
43. U.S. Government Accountability Office, "Military Base Realignments and Closures: DOD Is Taking Steps to Mitigate Challenges But Is Not Fully Reporting Some Additional Costs."
44. Peter Potochney, "Fiscal Year 2018 Department of Defense Budget Request for Energy, Installations, and Environment," testimony before the Subcommittee on Military Construction, Veterans Affairs, and Related Agencies, Committee on Appropriations, U.S. Senate, June 6, 2017, https://www.appropriations.senate.gov/imo/media/doc/060617-Potochney-Testimony.pdf (accessed August 10, 2017).

es raised by opponents of a new round of BRAC are: (1) a concern that an inadequate military force structure will be used to model requirements; (2) the possible loss of needed bases; (3) a flawed decision-making process; and (4) excessive costs.[45] All these issues can be properly addressed through the legislative guidance authorizing a new BRAC round.

Inadequate Military Force Structure. A common and valid criticism of the DOD's current Infrastructure Capacity Study, which suggested over 20 percent of excess capacity, is that the force structure used to project the infrastructure was insufficient.[46] The study relied on the force structure that the FY 2016 budget request projected for 2019. That force structure is far below what The Heritage Foundation has assessed as necessary,[47] and below what Senator McCain, the Chairman of the Senate Armed Services Committee, has recommended in his "Restoring American Power" white paper.[48]

Despite the criticism, Congress has the ability to designate the force structure that will be used in a new BRAC round. During the discussion of the National Defense Authorization Act for 2018, Senators McCain and Reed introduced an amendment that would authorize a new round of BRAC with some modifications.[49] One important modification is that it determines a floor for the force structure. It determines that the DOD needs to use *at least* as large a force structure as described in "Restoring American Power."

Another important consideration in this discussion is that BRAC is the preferred DOD instrument to match the force structure with the physical infrastructure. A new round of BRAC would thus enable the DOD to tie the changes in the force structure with changes in the infrastructure.

As stated to Congress by a DOD representative, "Of equal importance is the ability to conduct a holistic, periodic review of stationing in view of new and changing force structure configurations. With force structure adjustments under review today, a 2021 BRAC round provides a timely opportunity to integrate force structure decisions with the analysis to more efficiently synchronize delivery of supporting infrastructure."[50]

Bases and Decision Making. Many of the failures and shortcomings of the 2005 round of BRAC derive from its ambition and the magnitude of the round. The 10-year-gap between the last two rounds of BRAC (in 1995 and 2005) contributed to the accumulation of actions that required a BRAC process. These pent-up actions created great pressure on the 2005 round, since many thought it might literally be the only opportunity in a decade to change the infrastructure. It explains the inclusion of minor actions that rivaled all other rounds of BRAC.

The question of which bases are going to be closed or realigned follows a clear decision-making process that starts with defining the selection criteria. The current authorizing statute builds upon eight criteria with four military value criteria taking priority. This means that preserving and enhancing military capacity takes precedence over the sheer cost of the installation. Furthermore, Congress can set or modify these criteria, as the McCain–Reed proposal has done.[51]

BRAC rounds are not intended to eliminate all excess, but to reduce it. The BRAC process was conceived to maintain a surge capacity in the DOD infrastructure in case it was required to have rapid changes in the force structure or in the missions

45. U.S. Committee on Armed Services, "BRAC Facts: Setting the Record Straight," *Defense Drumbeat*, July 13, 2017, https://armedservices.house.gov/news/defense-drumbeat/brac-facts-setting-record-straight (accessed August 11, 2017).
46. U.S. Department of Defense, "Department of Defense: Infrastructure Capacity," p. 2.
47. Dakota Wood, ed., *2017 Index of U.S. Military Strength* (Washington, DC: The Heritage Foundation, 2016), p. 8, http://index.heritage.org/military/2017/.
48. John McCain, "Restoring American Power," U.S. Senate, Committee on Armed Services, 2017, https://www.mccain.senate.gov/public/_cache/files/25bff0ec-481e-466a-843f-68ba5619e6d8/restoring-american-power-7.pdf (accessed August 11, 2017).
49. Frederico Bartels, "Senate Amendment Would Fix Most BRAC Problems," Heritage Foundation *Issue Brief* No. 4745, July 28, 2017, http://www.heritage.org/defense/report/senate-amendment-would-fix-most-brac-problems.
50. Peter Potochney, "Fiscal Year 2018 Department of Defense Budget Request for Energy, Installations, and Environment," testimony before the Subcommittee on Military Construction, Veterans Affairs, and Related Agencies, Committee on Appropriations, U.S. Senate, June 6, 2017, https://www.appropriations.senate.gov/imo/media/doc/060617-Potochney-Testimony.pdf (accessed August 10, 2017).
51. Bartels, "Senate Amendment Would Fix Most BRAC Problems."

that the DOD needs to execute, which is why each round has targeted a sub-section of the whole DOD infrastructure. In this regard, "Historically, BRAC has reduced plant replacement value by an average of 5 percent."[52] Plant replacement value is how the Defense Department measures the combined value of all its installations from office space to unoccupied maneuvering areas. The 2005 round, for instance, reduced the infrastructure by 3.4 percent of the total plant replacement value, a below-average result in reduction, compared to previous rounds that averaged around 5 percent.[53] The 2005 result reflects transformation focus which detracted from the goal to reduce excess infrastructure.

Another check on the process is the length and breadth of the decision making that takes place during a BRAC round. The Defense Department needs considerable advance planning time to get the data from the installations in order to properly evaluate real excess beyond the preliminary capacity analysis. In this regard, "Given the history of previous BRAC rounds, at least 12 to 18 months advance planning time, if not longer, would be needed to plan for a future BRAC round."[54]

The current estimation of 20 percent of excess capacity is based on a parametric capacity analysis.[55] This is a simplistic analysis that takes into account the stated force structure and compares it to the infrastructure footprint, not necessarily taking into consideration where and how that infrastructure is dispersed. A good analogy for this type of analysis would be a fleet of one hundred cars, for which one would need one hundred averaged-sized parking spaces. This scenario provides no information about the size of the cars that need to be parked, if their usage rate, or even where these parking spaces are located. For this reason, the DOD acknowledges the limitations of "the analysis [which] tends to be conservative in that it does not focus on maximizing use of existing capacity."[56] It is also why the BRAC process contains within its steps a more detailed study of the adequacy of the force structure to the infrastructure.

Encouragingly, according to the GAO, "DOD improved its decision-making processes in each of the BRAC rounds."[57] It is now building on a more solid foundation of institutional knowledge, from individuals who are still engaged in DOD installations to the bank of reports and evaluations developed by the GAO. Thus, given all this rich experience to draw from, it would be improbable that BRAC would close or realign a base that was truly important for the nation's security.

Costs. It is inevitable that a BRAC round will require up-front funding for environmental cleanups, relocation costs, and new construction on bases. These costs can be substantial, but they should be measured against the fixed costs of maintaining the infrastructure and against the military value that each installation brings to the DOD inventory.

It is the same calculation that companies use to invest in a new headquarters or research and development. They need to assess the up-front costs against the value created for the organization. In this regard, the assessment of costs ought to follow the same criteria that are set for the BRAC round as a whole, prioritizing the military value generated by that installation, not merely focusing on dollars and cents.

Additionally, there are ways that Congress can write the authorizing legislation that would emphasize savings for the Defense Department and limit implementation costs. One way would be to set financial reduction goals for the round.[58] An approach proposed by Ranking Member Smith of the House Armed Services Committee in his BRAC amendment was to limit the recommendations to those that generate savings within a 20-year window, with an emphasis on recommendations that generate savings within five years.[59]

52. U.S. Department of Defense, "Department of Defense: Infrastructure Capacity," p. 2.
53. Ibid.
54. U.S. General Accounting Office, "Military Bases: Lessons Learned from Prior Base Closure Rounds," p. 39.
55. U.S. Department of Defense, "Department of Defense: Infrastructure Capacity."
56. Ibid., p. 1.
57. U.S. General Accounting Office, "Military Bases: Lessons Learned From Prior Base Closure Rounds," p. 9.
58. Frederico Bartels, "Four Priorities for the New Round of Base Realignment and Closure (BRAC)," Heritage Foundation *Issue Brief* No. 4725, June 26, 2017, http://www.heritage.org/defense/report/four-priorities-the-new-round-base-realignment-and-closure-brac.
59. The Military Infrastructure Consolidation and Efficiency Act of 2017, H.R. 753, 115th Cong., 1st Session.

The McCain–Reed proposal, on the other hand, would establish a $5 billion cap, which would also serve as a strong signal to the DOD to better control the implementation costs.[60] These proposals show that there are a variety of means to control costs better than during the 2005 round. It illustrates methods to address the costs if that is the true concern of Congress.

Improving BRAC

In the discussions of the 2018 budget, the issue of authorizing a new round of BRAC gained traction among congressional leadership, but not enough to be incorporated into the NDAA. The Chairman and the Ranking Member of the SASC introduced an amendment to the NDAA, which was never voted on, but demonstrated their commitment to getting a new round of BRAC authorized.[61] Furthermore, the Ranking Member of the HASC also proposed legislation authorizing a new round of BRAC.

When the Pentagon requests a new round in the 2019 budget request, it should address and incorporate the criticisms that the proposal faced in the 2018 NDAA. The reforms outlined below tackle the concerns expressed by lawmakers through the debate.

The goal of reforming the BRAC process should be to make its outcomes more predictable and to make it a permanent feature in the DOD's real estate management toolbox. Due to the current legal restrictions, the DOD views BRAC as the only tool available to manage its real estate inventory. This needs to change. Congress should empower the DOD with increased authorities to act on its own in the case of smaller, less-significant actions, while at the same time regularize BRAC for major actions, moving away from being a once-in-a-decade event.

BRAC has worked, but improvements are needed. These changes and proposals should take place regardless of when authorization for a next round takes place. Congress needs to involve itself in the process as well and move beyond simply prohibiting the usage of funds in a new round of BRAC.

Making Infrastructure Assessment Biennial. One of the constant criticisms that BRAC opponents have levied is that there is not enough information to determine if there is excess infrastructure or not.[62] The charge is that the simple parametric capacity analysis from the March 2016 Infrastructure Capacity report is not enough for lawmakers to make a decision.[63] Since Congress has prohibited the DOD from spending any money on BRAC, which includes spending to generate a detailed analysis of infrastructure, the argument is, at best, duplicitous.

Robust information comparing the force structure to the infrastructure capacity is best generated during the initial steps of the BRAC process. Congress should transform the creation of a force structure and an infrastructure inventory from the BRAC process and into a biennial report. The required level for the report should match the one currently developed during the BRAC process. The report would be sent to Congress every other year and would assess the adequacy of the force structure to the infrastructure.

By removing this step from the process and regularizing its delivery to Congress, the DOD would be creating the level of detailed analysis that lawmakers have requested. When opposing the current efforts to authorize a new round of BRAC, HASC Chairman Mac Thornberry (R–TX) stated that "I am interested in real, updated, data-driven study of our excess infrastructure."[64] These requirements would be determined and met through the biennial report on infrastructure capacity.

Disassociating the infrastructure assessment from BRAC will yield two important results: (1) It will regularize the acquisition of information on base usage and (2) it will provide Congress better data with which to decide whether to authorize a new round of BRAC.

60. Jared Serbu, "McCain, Reed Float Trial Balloon for Another BRAC Round," Federal News Radio, July 18, 2017, https://federalnewsradio.com/dod-reporters-notebook-jared-serbu/2017/07/mccain-reed-float-trial-balloon-for-another-brac-round/ (accessed August 11, 2017).
61. Frederico Bartels, "Senate Amendment Would Fix Most BRAC Problems," Heritage Foundation *Issue Brief* No. 4745, July 28, 2017, http://www.heritage.org/defense/report/senate-amendment-would-fix-most-brac-problems.
62. Rebecca Kheel, "Defense Bill's Ban on Base Closures Survives," *The Hill*, April 27, 2016, http://thehill.com/policy/defense/277893-defense-bills-base-closure-ban-untouched (accessed on August 25, 2017).
63. U.S. Department of Defense, "Defense Department: Infrastructure Capacity."
64. U.S. Committee on Armed Services, "BRAC Facts: Setting the Record Straight."

When determining that the DOD Support Infrastructure Management was an area of high risk in the federal government, the GAO stated that much of the utilization data was unreliable. This unreliability was derived from the age of the data input, some as old as 1999, or many facilities simply stating to be at full capacity.[65] The reporting requirement would force the DOD to improve its data collection efforts or it would expose the holes in the utilization data. Both outcomes would be an improvement over that status quo.

Once in possession of these biennial reports, Congress would have access to data on DOD infrastructure utilization at a more granular level than it currently receives. The level of assessment developed during a BRAC process would include details on actual installations, which could trigger political objections. This is why infrastructure analysis is typically not executed outside an authorized BRAC round. Nonetheless, making this information routinely available would allow patterns of underutilization to emerge. Once identified, this underutilization can be addressed, either by bringing more missions to the base, realigning, or closing it—depending on the military value of the installation.

Empowering the DOD with More Standing Authority. The DOD's authority to close and realign bases is limited by the reporting requirements established by 10 U.S. Code § 2687 (1977). It requires any action that involves more than 300 authorized civilian personnel to be reported to Congress and for the DOD to wait 30 legislative days, or 60 calendar days. This has proven to be enough deterrence for the DOD not to initiate any closure or realignment between the enactment of this law in 1977 and the creation of the first BRAC in 1988.[66] The difficultly associated with closing bases outside BRAC has led the DOD to avoid even attempting it.

Congress should both increase the reporting limit of individuals employed in the facility to 500 and decrease the waiting period to 15 legislative days, or 30 calendar days. Empowering the DOD with more leeway would reduce the need to accumulate minor actions to the next BRAC round, as it was the case in 2005. This would enable the statutory authority to become more useful and create an instrument that permits minor infrastructure adjustment outside a BRAC round.

More statutory authorities would lessen the pressure and expectations on each of the BRAC rounds, as more minor actions would take place in-between rounds. The BRAC round would then focus on major actions, be they closures or realignments. Since there would be multiple interactions and multiple possibilities to change and shape the infrastructure, there would be no need to accumulate all the actions into one single action.

Permanent BRAC Staff. The main suggested reform from the 2005 BRAC Commission was to establish a small permanent staff to support future rounds at the Office of the Secretary of Defense. Congress should allow the establishment of this small permanent staff. This would keep some of the institutional knowledge in place and make it easier to learn from shortcomings and improve through time.[67]

The GAO has described this problem as such: "The loss of institutional knowledge and experience in the BRAC process, particularly within DOD and the services, could marginally add to the lead time required to prepare for a future BRAC round. This situation, along with the normal lead time required to initiate a BRAC program, will need to be considered in authorizing any future BRAC round."[68]

Furthermore, as the last BRAC Commission stated,

> [a]nother difficulty faced by the 2005 BRAC Commission was meeting its staffing needs in a timely manner in order to fulfill its statutory duties. Since the 1995 BRAC Commission had been disbanded, there was no pre-existing support structure to manage the administrative start-up needs of the Commission such as recruiting and hiring, leasing space and equipment, and other administrative issues.[69]

65. U.S. Government Accountability Office, "High-Risk Series: Progress on Many High-Risk Areas, While Substantial Efforts Needed on Others," *GAO Report*, February 15, 2017, p. 318, http://www.gao.gov/products/GAO-17-317 (accessed August 30, 2017).
66. Schlossberg, "How Congress Cleared the Bases: A Legislative History of BRAC."
67. U.S. Department of Defense, Defense Base Closure and Realignment Commission, *2005 Defense Base Closure and Realignment Commission Report*, September 8, 2005, http://brac.gov/docs/final/BRACReportcomplete.pdf (accessed August 16, 2017).
68. U.S. General Accounting Office, "Military Bases: Lessons Learned from Prior Base Closure Rounds," p. 40.
69. U.S. Department of Defense, Defense Base Closure and Realignment Commission, *2005 Defense Base Closure and Realignment Commission Report*, p. R-3.

This is the type of institutional support and knowledge that does not get news coverage, but it is determinant in making the process successful.

Maintaining a small presence of public employees dedicated to the BRAC is the best way to manage real estate within the federal government. Establishing a small cadre of BRAC permanent professionals would allow the DOD and Congress to shrink the time required to execute a new round of BRAC while maintaining institutional knowledge. These would be the individuals responsible for collecting the data and compiling the report on biennial infrastructure capacity.

Requiring Reduction Targets. Whenever Congress authorizes a round of BRAC, it should come with a defined reduction target, preferably defined in terms of plant-replacement-value-reduction percentage, or at a minimum a path for that target. The McCain–Reed amendment features a requirement that the Secretary of Defense establishes a target for reduction.[70] This good step forward should become a feature of future BRAC authorizing legislation.

Infrastructure reduction targets serve to orient the work developed by the Defense Department and guide the thinking that designs the recommended actions. The target would also provide guidance as to what are the expected outcomes of the round, since it would serve as a strong signal to the department of congressional intent.

One failure of the 2005 round was not determining a target for infrastructure reduction. This allowed the transformational theme to dominate the conversation of the BRAC round and left infrastructure reduction by the wayside. In this sense, the focus shifted heavily from reducing the fixed costs and the infrastructure towards completely transforming the DOD's infrastructure. BRAC was not conceived as a tool to completely transform the DOD's infrastructure, but rather a tool that is capable of reaching a political compromise to reduce unneeded infrastructure while maintaining military value. The farther one deviates from its designed intent, the harder it will be to accomplish its mission.

Maintaining the Successful Institutional Setting. The independent commission should be a feature of any future BRAC round. The commission has been very successful in navigating the political interests of all the parties involved in a base closure or realignment recommendation. It provides the necessary oversight on the work of the DOD. Because of its independence and temporary character, the commission is able to serve as a shock absorber for Congress, serving to funnel parochial interests.

The commission further serves as an independent and trustworthy connection between Congress and the DOD, which do not necessarily have the same goals in mind. Maintaining the independent commission is an acknowledgment that Congress and the DOD do not have naturally aligned interests when it comes to military bases. As a whole, Congress will always tend toward maintaining the status quo and keeping bases open. The BRAC Commission is an example of how public choice theory can be overcome through institutional arrangements.[71] Unlearning this lesson will be costly for both America's national security and American taxpayers.

Conclusion

BRAC is a historically successful process that has served for Congress to reach a point where it can allow the Pentagon to close and realign bases with military value in mind. It represents a compromise between institutions that have different incentives and yet found a way to align those interests for the benefit of the nation. BRAC has become the only functional instrument that the DOD has to change its real estate footprint. This is why Congress should:

- **Authorize a BRAC round in the 2019 NDAA, if not sooner**. Reducing excess DOD infrastructure is a key method to increase readiness and save money.

- **Make the infrastructure assessment biennial.** Congress should remove the infrastructure and force structure reports from the BRAC process and transform them into biennial reports. These reports would allow Congress to have better data when authorizing future rounds of BRAC.

- **Empower the DOD with more standing authority.** BRAC's creation took place after Con-

70. Bartels, "Senate Amendment Would Fix Most BRAC Problems."

71. Kehl, "The Pentagon vs. Congress: The Political Economy of Military Base Closures During BRAC."

gress imposed onerous reporting requirements that, de facto, severely restricted DOD standing authority to close and realign bases. Congress should raise the limit of affected employees and decrease the days required before action, thus granting more leeway for the DOD to act with reduced Congressional input.

- **Create a permanent BRAC staff.** The DOD should have a small staff at the Office of Secretary of Defense whose main responsibility is to collect and organize the installation usage and other associated data that goes in the biennial infrastructure assessment.

- **Require reduction targets.** Congress should codify in law that every BRAC round needs to have a defined reduction target in order to inform the work of that round.

- **Maintain the BRAC Commission.** Congress should keep the BRAC Commission as the buffer between the parochial interests represented by individual lawmakers and the broader interests represented by Congress as a whole.

As Heritage's Jack Spencer stated: "A successful BRAC is essential to the Pentagon's modernization plans because it will not only rid the Department of Defense of excess infrastructure and free resources, but also ensure that the remaining infrastructure is appropriate for a 21st century military."[72] These were the stakes during the last round in 2005 and those are the stakes in upcoming rounds of BRAC.

As stated by the last BRAC Commissioner, Anthony Principi, "[a]fter a decade of inaction, now is the time to do what's right for our men and women in uniform. Spending dollars on infrastructure that does not serve their needs is inexcusable."[73] There are multiple ways to address congressional concerns with a new round of BRAC, it just takes a few changes in the authorizing legislation. American warfighters and taxpayers deserve an infrastructure that serves their needs.

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72. Jack Spencer, "Guidelines for a Successful BRAC," Heritage Foundation *Backgrounder* No. 1716, January 6, 2004, http://www.heritage.org/node/18046/print-display.
73. Anthony J. Principi, "Time for a New BRAC," *The Hill*, September 3, 2015, http://thehill.com/blogs/congress-blog/homeland-security/252594-time-for-a-new-brac (accessed August 15, 2017).