

BASE REDEVELOPMENT & INDEMNIFICATION CORRECTION ACT

TESTIMONY - MR. YOUNG OF INDIANA

Mr. Young:

Mr. Chairman, I am here today to thank the Armed Services Committee on their excellent work. I want to take an opportunity to highlight an issue I have had the pleasure of working on, both during my tenure on this distinguished committee, and throughout the course of my time in Congress. A provision was included in the Fiscal Year 2013 National Defense Authorization Act (NDAA) requiring DoD to produce a report on issue of great significance to Southern Indiana and eighteen other areas with former DoD installations.

During my time on the Armed Services Committee, I learned of a discrepancy in the law where military facilities closed outside of the BRAC process are not given the same indemnification against liabilities that are a result of hazardous substances leftover from any previous DoD activities. Several army ammunition plants were closed outside of the BRAC process and—because DoD is not required to maintain responsibility for potential problems related to military use on those sites—potential redevelopment of these properties is hindered.

In the 112th Congress, during consideration of the FY2013 NDAA, I introduced the Base Redevelopment and Indemnification Correction (BRIC) Act. This legislation would have extended the same BRAC protections to non-BRAC closed facilities. The legislation was included in the House-passed NDAA but was removed during conference negotiations with the Senate. However, language was adopted that required a DoD assessment of the status of these former defense facilities, as well as recommendations to facilitate their redevelopment.

On March 6th of this year, the report was released to this Committee by the DoD's Installations and Environment office. I would like to extend my appreciation to Deputy Under Secretary Conger and his office for their hard work in aggregating this report and their willingness to work with my office throughout the entire process. Though the report was met with continued delays, Mr. Conger's office was communicative throughout the process and I applaud their willingness to dialogue on this important issue with my office and the relevant stakeholders.

However, I maintain significant reservations with the conclusions reached within the DoD report. The brief report concludes stating, "The Department does not believe there is any basis for establishing such [broad] new liability ... Has no further recommendations regarding the need for additional authorities to expedite the disposal of real property at closed installation in order to facilitate economic redevelopment for local communities."

Despite these DoD conclusions, affected communities continue to express significant reservations with these non-Brac closed facilities, highlighting the need for further consideration of this dilemma. The crux of the Department's argument relies on the consequence of retroactively extending 330-type indemnification to the 19 facilities identified within the report. However, I firmly believe that the DoD must maintain responsibility for all activities carried out while these facilities were owned and operated by the Department. Some of these facilities continue to face impediments redeveloping the land, as developers maintain significant reservations with future liabilities that could arise as a result of former DoD activities. Local redevelopers should not be held responsible for any lingering issues that were a result of DoD operations.

I am sympathetic to this fiscal argument and understand the uncertainty that extending this indemnification could impose on the Department. That is why my office has re-crafted the BRIC Act to reflect some of the concerns mentioned within the report. In an effort to ensure the DoD is not liable for "windfall payments" to current owners and developers, I have molded the language to limit the scope of this legislation. This newly

crafted legislation would limit the extension of 330 indemnification to properties closed outside of the BRAC process that are still under the control of DoD. This language will ensure that properties that have successfully been developed by local communities do not reap these “windfall payments” while still ensuring those properties trapped in limbo receive the indemnification and are able to be seamlessly transferred to local redevelopers.

I thank the Chairman for his continued support to address this ongoing issue and urge inclusion of this language within the FY 2015 NDAA. I look forward to working with the Committee throughout consideration of the NDAA and thank the Committee for the opportunity to testify today.