

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.

“SEC. 209. DEFINITIONS

“In this title:

“(1) The term ‘Account’ means the Department of Defense Base Closure Account established by section 2906(a) of the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101-510; 10 U.S.C. 2687 note).

“(2) The term ‘appropriate committees of Congress’ means the Committees on Armed Services and the Committees on Appropriations of the Senate and the House of Representatives.

“(3) The terms ‘Commission on Base Realignment and Closure’ and ‘Commission’ mean the Commission established by the Secretary of Defense in the charter signed by the Secretary on May 3, 1988, and as altered thereafter with respect to the membership and voting.

“(4) The term ‘charter establishing such Commission’ means the charter referred to in paragraph (3).

“(5) The term ‘initiate’ includes any action reducing functions or civilian personnel positions but does not include studies, planning, or similar activities carried out before there is a reduction of such functions or positions.

“(6) 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 Secretary of a military department.

“(7) The term ‘realignment’ includes any action which both reduces and relocates functions and civilian personnel positions.

“(8) The term ‘Secretary’ means the Secretary of Defense.

“(9) 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.

“(10) The term ‘redevelopment authority’, in the case of an installation to be closed under this title, means any entity (including an entity established by a State or local government) recognized by the Secretary of Defense as the entity responsible for developing the redevelopment plan with respect to the installation or for directing the implementation of such plan.

“(11) The term ‘redevelopment plan’ in the case of an installation to be closed under this title, means a plan that—

“(A) is agreed to by the redevelopment authority with respect to the installation; and

“(B) provides for the reuse or redevelopment of the real property and personal property of the installation that is available for such reuse or redevelopment as a result of the closure of the installation.”

[For effective date of amendments by section 2711(c)(1), (3)(B) of Pub. L. 112-239 to sections 204, 207, and 209 of Pub. L. 100-526, set out above, see section 2711(d) of Pub. L. 112-239, set out as an Effective Date of 2013 Amendment note under section 2701 of this title.]

[For effective date of amendment by section 2813(d)(1) of Pub. L. 103-337 to section 209 of Pub. L. 100-526, set out above, see Effective Date of Amendment by Section 2813(d)(1) and (2) of Pub. L. 103-337 note set out above.]

[For effective date of amendment by section 344(a) of Pub. L. 102-190 to sections 204 and 209 of Pub. L. 100-526, set out above, see Effective Date of 1991 Amendments by Section 344 of Pub. L. 102-190 note set out above.]

[Pub. L. 101-510, div. B, title XXIX, §2923(b)(2), Nov. 5, 1990, 104 Stat. 1821, provided that: “The amendment made by paragraph (1) [amending section 207 of Pub. L. 100-526 set out above] does not apply with respect to the availability of funds appropriated before the date of the enactment of this Act [Nov. 5, 1990].”]

§ 2687a. Overseas base closures and realignments and basing master plans

(a) ANNUAL REPORT ON STATUS OF OVERSEAS CLOSURES AND REALIGNMENTS AND MASTER PLANS.—(1) At the same time that the budget is submitted under section 1105(a) of title 31 for a fiscal year, the Secretary of Defense shall submit to the congressional defense committees and the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives a report on—

(A) the status of overseas base closure and realignment actions undertaken as part of a global defense posture realignment strategy; and

(B) the status of development and execution of comprehensive master plans for overseas military main operating bases, forward operating sites, and cooperative security locations.

(2) A report under paragraph (1) shall address the following:

(A) How the master plans described in paragraph (1)(B) would support the security commitments undertaken by the United States pursuant to any international security treaty.

(B) The impact of such plans on the current security environments in the combatant com-

mands, including United States participation in theater security cooperation activities and bilateral partnership, exchanges, and training exercises.

(C) Any comments of the Secretary of Defense resulting from an interagency review of these plans that includes the Department of State and other Federal departments and agencies that the Secretary of Defense considers necessary for national security.

(b) DEPARTMENT OF DEFENSE OVERSEAS MILITARY FACILITY INVESTMENT RECOVERY ACCOUNT.—(1) Except as provided in subsection (c), amounts paid to the United States, pursuant to any treaty, status of forces agreement, or other international agreement to which the United States is a party, for the residual value of real property or improvements to real property used by civilian or military personnel of the Department of Defense shall be deposited into the Department of Defense Overseas Military Facility Investment Recovery Account.

(2) Money deposited in the Department of Defense Overseas Military Facility Investment Recovery Account shall be available to the Secretary of Defense for payment, as provided in appropriation Acts, of costs incurred by the Department of Defense in connection with—

(A) military construction, facility maintenance and repair, and environmental restoration at military installations in the United States; and

(B) military construction, facility maintenance and repair, and compliance with applicable environmental laws at military installations outside the United States at which the Secretary anticipates the United States will have an enduring presence.

(3) Funds in the Department of Defense Overseas Facility Investment Recovery Account shall remain available until expended.

(4) Not later than December 1 of each year, the Secretary of Defense shall submit to the congressional defense committees a report detailing all expenditures made from the Department of Defense Overseas Facility Investment Recovery Account during the preceding fiscal year.

(c) TREATMENT OF AMOUNTS CORRESPONDING TO THE VALUE OF PROPERTY PURCHASED WITH NON-APPROPRIATED FUNDS.—In the case of a payment referred to in subsection (b)(1) for the residual value of real property or improvements at an overseas military facility, the portion of the payment that is equal to the depreciated value of the investment made with nonappropriated funds shall be deposited in the reserve account established under section 204(b)(7)(C) of the Defense Authorization Amendments and Base Closure and Realignment Act (Public Law 100-526; 10 U.S.C. 2687 note). The Secretary of Defense may use amounts in the account (in such an aggregate amount as is provided in advance by appropriation Acts) for the purpose of acquiring, constructing, or improving commissary stores and nonappropriated fund instrumentalities.

(d) OMB REVIEW OF PROPOSED OVERSEAS BIASING SETTLEMENTS.—(1) The Secretary of Defense may not enter into an agreement of settlement with a host country regarding the release to the host country of improvements made by the

United States to facilities at an installation located in the host country until 30 days after the date on which the Secretary submits the proposed settlement to the Director of the Office of Management and Budget. The prohibition set forth in the preceding sentence shall apply only to agreements of settlement for improvements having a value in excess of \$10,000,000. The Director shall evaluate the overall equity of the proposed settlement. In evaluating the proposed settlement, the Director shall consider such factors as the extent of the United States capital investment in the improvements being released to the host country, the depreciation of the improvements, the condition of the improvements, and any applicable requirements for environmental remediation or restoration at the installation.

(2) Each year, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report on each proposed agreement of settlement that was not submitted by the Secretary to the Director of the Office of Management and Budget in the previous year under paragraph (1) because the fair market value of the improvements to be released pursuant to the proposed agreement did not exceed \$10,000,000.

(e) CONGRESSIONAL OVERSIGHT OF USE OF PAYMENTS-IN-KIND FOR CONSTRUCTION OR OPERATIONS.—(1) Before concluding an agreement for acceptance of military construction or facility improvements as a payment-in-kind, the Secretary of Defense shall submit to the congressional defense committees a notification on the proposed agreement. Any such notification shall contain the following:

(A) A description of the military construction project or facility improvement project.

(B) An explanation of the military requirement to be satisfied with the project.

(C) A certification that the project is included in the current future-years defense program.

(2) Before concluding an agreement for acceptance of host nation support or host nation payment of operating costs of United States forces as a payment-in-kind, the Secretary of Defense shall submit to the congressional defense committees a notification on the proposed agreement. Any such notification shall contain the following:

(A) A description of each activity to be covered by the payment-in-kind.

(B) A certification that the costs to be covered by the payment-in-kind are included in the budget of one or more of the military departments or that it will otherwise be necessary to provide for payment of such costs in a budget of one or more of the military departments in the current or the next fiscal year.

(3) When the Secretary of Defense submits a notification of a proposed agreement under paragraph (1) or (2), the Secretary may then enter into the agreement described in the notification only after the end of the 30-day period beginning on the date on which the notification is submitted or, if earlier, the end of the 14-day period beginning on the date on which a copy of the notification is provided in an electronic medium pursuant to section 480 of this title.

(f) ACCEPTANCE OF MILITARY CONSTRUCTION PROJECTS AS PAYMENTS-IN-KIND AND IN-KIND CONTRIBUTIONS.—(1)(A) Except as provided in subparagraph (B), a military construction project costing more than \$6,000,000 may be accepted as payment-in-kind or as an in-kind contribution required by a bilateral agreement with a host country only if that military construction project is authorized by law.

(B) Subparagraph (A) does not apply to a military construction project that—

(i) was specified in a bilateral agreement with a host country that was entered into before December 26, 2013;

(ii) was the subject of negotiation between the United States and a host country as of the date of the enactment of the Military Construction Authorization Act for Fiscal Year 2015; or

(iii) was accepted as payment-in-kind for the residual value of improvements made by the United States at military installations released to the host country under section 2921 of the Military Construction Authorization Act for Fiscal Year 1991 (division B of Public Law 101-510; 10 U.S.C. 2687 note) before December 26, 2013.

(2)(A) If the Secretary of Defense accepts a military construction project to be built for Department of Defense personnel outside the United States as a payment-in-kind or an in-kind contribution required by a bilateral agreement with a host country, the Secretary shall submit to the congressional defense committees a written notification at least 30 days before the initiation date for any such military construction project.

(B) A notification under subparagraph (A) with respect to a proposed military construction project shall include the following:

(i) The requirements for, and purpose and description of, the proposed project.

(ii) The cost of the proposed project.

(iii) The scope of the proposed project.

(iv) The schedule for the proposed project.

(v) Such other details as the Secretary considers relevant.

(C) Subparagraph (A) shall not apply to a military construction project authorized in a Military Construction Authorization Act.

(3) To the extent that a payment-in-kind or an in-kind contribution is provided under a bilateral agreement with a host country with respect to a military construction project for which funds have already been obligated or expended by the Secretary of Defense, the Secretary shall return to the Treasury funds in an amount equal to the value of the funds already obligated or expended for the project.

(4) In this subsection, the term “military construction project” has the meaning given such term in section 2801 of this title.

(g) DEFINITIONS.—In this section:

(1) The term “fair market value of the improvements” means the value of improvements determined by the Secretary of Defense on the basis of their highest use.

(2) The term “improvements” includes new construction of facilities and all additions, improvements, modifications, or renovations

made to existing facilities or to real property, without regard to whether they were carried out with appropriated or nonappropriated funds.

(3) The term “nonappropriated funds” means funds received from—

(A) the adjustment of, or surcharge on, selling prices at commissary stores fixed under section 2685 of this title; or

(B) a nonappropriated fund instrumentality.

(4) The term “nonappropriated fund instrumentality” means an instrumentality of the United States under the jurisdiction of the armed forces (including the Army and Air Force Exchange Service, the Navy Resale and Services Support Office, and the Marine Corps exchanges) which is conducted for the comfort, pleasure, contentment, or physical or mental improvement of members of the armed forces.

(Added Pub. L. 111-84, div. B, title XXVIII, §2822(a)(1), Oct. 28, 2009, 123 Stat. 2665; amended Pub. L. 111-383, div. A, title X, §1075(b)(44), Jan. 7, 2011, 124 Stat. 4371; Pub. L. 112-239, div. A, title X, §1076(f)(34), Jan. 2, 2013, 126 Stat. 1954; Pub. L. 113-66, div. B, title XXVIII, §2807(a), Dec. 26, 2013, 127 Stat. 1008; Pub. L. 113-291, div. B, title XXVIII, §2803(a), Dec. 19, 2014, 128 Stat. 3696; Pub. L. 114-92, div. A, title X, §1081(a)(11), (b)(7), Nov. 25, 2015, 129 Stat. 1001, 1002; Pub. L. 114-328, div. B, title XXVIII, §2811(a), (c), Dec. 23, 2016, 130 Stat. 2715, 2716.)

REFERENCES IN TEXT

The date of the enactment of the Military Construction Authorization Act for Fiscal Year 2015, referred to in subsec. (f)(1)(B)(ii), is the date of enactment of div. B of Pub. L. 113-291, which was approved Dec. 19, 2014.

AMENDMENTS

2016—Subsec. (f). Pub. L. 114-328, §2811(a), which directed the general amendment of subsec. (f), was executed by amending subsec. (f) as it read after the repeal of Pub. L. 113-291, §2803(a), and restoration of the text prior to that amendment, to reflect the probable intent of Congress. As restored, subsec. (f) related to authorized use of payments-in-kind.

Pub. L. 114-328, §2811(c), repealed Pub. L. 113-291, §2803(a), and provided that the provisions of law amended by such section 2803(a) are restored as if such section had not been enacted into law. See 2014 Amendment note below.

2015—Subsec. (d)(2). Pub. L. 114-92, §1081(a)(11), inserted “fair market” before “value”.

Subsec. (f). Pub. L. 114-92, §1081(b)(7), amended Pub. L. 113-291, §2803(a). See 2014 Amendment note below.

2014—Subsec. (f). Pub. L. 113-291, §2803(a), as amended by Pub. L. 114-92, §1081(b)(7), which amended subsec. (f) generally by substituting provisions related to authorized use of payments-in-kind and in-kind contributions for provisions related to authorized use of payments-in-kind, was repealed by Pub. L. 114-328, §2811(c).

2013—Pub. L. 113-66, §2807(a), amended section generally. Prior to amendment, section consisted of subssecs. (a) and (b) which related to an annual status report of overseas base closures, realignments, and basing master plans and required elements of the report, respectively.

Subsec. (a). Pub. L. 112-239, §1076(f)(34)(A), substituted “Foreign Relations” for “Foreign relations”.

Subsec. (b)(1). Pub. L. 112-239, §1076(f)(34)(B), struck out comma after “including” and substituted “the Treaty” for “The Treaty”.

2011—Subsec. (a). Pub. L. 111-383 substituted “31 for” for “31for” in introductory provisions.

EFFECTIVE DATE OF 2015 AMENDMENT

Pub. L. 114-92, div. A, title X, §1081(b), Nov. 25, 2015, 129 Stat. 1001, provided in part that the amendment made by section 1081(b)(7) is effective as of Dec. 19, 2014, and as if included in Pub. L. 113-291 as enacted.

EFFECTIVE DATE OF 2014 AMENDMENT

Pub. L. 113-291, div. B, title XXVIII, §2803(d), Dec. 19, 2014, 128 Stat. 3697, which provided the effective date for the amendments made by section 2803 of Pub. L. 113-291, was repealed by Pub. L. 114-328, div. B, title XXVIII, §2811(c), Dec. 23, 2016, 130 Stat. 2716.

REPEAL OF 2014 AMENDMENT

Pub. L. 114-328, div. B, title XXVIII, §2811(c), Dec. 23, 2016, 130 Stat. 2716, provided that: “Section 2803 of the Carl Levin and Howard ‘Buck’ McKeon National Defense Authorization Act for Fiscal Year 2015 (Public Law 113-291; 128 Stat. 3696) is repealed, and the provisions of law amended by subsections (a) and (b) of that section [amending this section and section 2802 of this title] shall be restored as if such section had not been enacted into law.”

TERMINATION OF REPORTING REQUIREMENTS

For termination, effective Dec. 31, 2021, of provisions of this section requiring submittal of annual report to Congress, see section 1061 of Pub. L. 114-328, set out as a note under section 111 of this title.

§ 2688. Utility systems: conveyance authority

(a) CONVEYANCE AUTHORITY.—The Secretary of a military department may convey a utility system, or part of a utility system, under the jurisdiction of the Secretary to a municipal, private, regional, district, or cooperative utility company or other entity. The conveyance may consist of all right, title, and interest of the United States in the utility system or such lesser estate as the Secretary considers appropriate to serve the interests of the United States.

(b) SELECTION OF CONVEYEE.—(1) If more than one utility or entity referred to in subsection (a) notifies the Secretary concerned of an interest in a conveyance under such subsection, the Secretary shall carry out the conveyance through the use of competitive procedures.

(2) Notwithstanding paragraph (1), the Secretary concerned may use procedures other than competitive procedures, but only in accordance with subsections (c) through (f) of section 2304 of this title, to select the conveyee of a utility system (or part of a utility system) under subsection (a).

(3) With respect to the solicitation process used in connection with the conveyance of a utility system (or part of a utility system) under subsection (a), the Secretary concerned shall ensure that the process is conducted in a manner consistent with the laws and regulations of the State in which the utility system is located to the extent necessary to ensure that all interested regulated and unregulated utility companies and other interested entities receive an opportunity to acquire and operate the utility system to be conveyed.

(c) CONSIDERATION.—(1) The Secretary concerned may require as consideration for a conveyance under subsection (a) an amount equal to the fair market value (as determined by the

Secretary) of the right, title, or interest of the United States conveyed. The consideration may take the form of—

(A) a lump sum payment; or

(B) a reduction in charges for utility services provided by the utility or entity concerned to the military installation at which the utility system is located.

(2) If the utility services proposed to be provided as consideration under paragraph (1) are subject to regulation by a Federal or State agency, any reduction in the rate charged for the utility services shall be subject to establishment or approval by that agency.

(d) CONTRACTS FOR UTILITY SERVICES.—(1) Except as provided in paragraph (2), a contract for the receipt of utility services as consideration under subsection (c), or any other contract for utility services entered into by the Secretary concerned in connection with the conveyance of a utility system under this section, may be for a period not to exceed 10 years.

(2) The Secretary of Defense, or the designee of the Secretary, may authorize a contract for utility services described in paragraph (1) to have a term in excess of 10 years, but not to exceed 50 years, if the Secretary determines that a contract for a longer term will be cost effective. The determination of cost effectiveness shall be made using a business case analysis that includes an independent estimate of the level of investment that should be required to maintain adequate operation of the utility system over the proposed term of the contract.

(e) TREATMENT OF PAYMENTS.—(1) A lump sum payment received under subsection (c) shall be credited, at the election of the Secretary concerned—

(A) to an appropriation of the military department concerned available for the procurement of the same utility services as are provided by the utility system conveyed under this section;

(B) to an appropriation of the military department available for carrying out energy savings projects or water conservation projects; or

(C) to an appropriation of the military department available for improvements to other utility systems.

(2) Amounts so credited shall be merged with funds in the appropriation to which credited and shall be available for the same purposes, and subject to the same conditions and limitations, as the appropriation with which merged.

[(f) Repealed. Pub. L. 112-81, div. A, title X, §1061(21)(C), Dec. 31, 2011, 125 Stat. 1584.]

(g) ADDITIONAL TERMS AND CONDITIONS.—(1) The Secretary concerned may require such additional terms and conditions in connection with a conveyance under subsection (a) as the Secretary considers appropriate to protect the interests of the United States.

(2) The Secretary concerned shall require in any contract for the conveyance of a utility system (or part of a utility system) under subsection (a) that the conveyee manage and operate the utility system in a manner consistent with applicable Federal and State regulations pertaining to health, safety, fire, and environmental requirements.