

maintenance by the utility of a water-saving device or technology.

(4)(A) If an agreement under paragraph (3) provides for a utility to pay in advance the financing costs for the design or implementation of a program referred to in that paragraph and for such advance payment to be repaid by the United States, the cost of such advance payment may be recovered by the utility under terms that are not less favorable than the terms applicable to the most favored customer of the utility.

(B) Subject to the availability of appropriations, a repayment of an advance payment under subparagraph (A) shall be made from funds available to a military department for the purchase of utility services.

(C) An agreement under paragraph (3) shall provide that title to a water-saving device or technology installed at a military installation pursuant to the agreement shall vest in the United States. Such title may vest at such time during the term of the agreement, or upon expiration of the agreement, as determined to be in the best interests of the United States.

(b) USE OF FINANCIAL INCENTIVES AND WATER COST SAVINGS.—(1) Financial incentives received under subsection (a)(2) shall be used as provided in section 2865(b)(3) of this title.

(2) Water cost savings realized under subsection (a)(3) shall be used as provided in section 2865(b)(2) of this title.

(c) WATER CONSERVATION CONSTRUCTION PROJECTS.—(1) The Secretary of Defense may carry out a military construction project for water conservation, not previously authorized, using funds appropriated or otherwise made available to the Secretary for water conservation.

(2) When a decision is made to carry out a project under paragraph (1), the Secretary of Defense shall notify the appropriate committees of Congress of that decision. Such project may be carried out only after the end of the 21-day period beginning on the date the notification is received by such committees 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.

(Added Pub. L. 103-160, div. B, title XXVIII, §2803(a), Nov. 30, 1993, 107 Stat. 1884; amended Pub. L. 104-106, div. A, title XV, §1502(a)(27), Feb. 10, 1996, 110 Stat. 506; Pub. L. 105-85, div. B, title XXVIII, §2804(b), Nov. 18, 1997, 111 Stat. 1991; Pub. L. 108-136, div. A, title X, §1031(a)(48), Nov. 24, 2003, 117 Stat. 1602.)

AMENDMENTS

2003—Subsec. (c)(2). Pub. L. 108-136 inserted before period at end “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”.

1997—Subsec. (b). Pub. L. 105-85 amended subsec. (b) generally. Prior to amendment, subsec. (b) read as follows:

“(b) USE OF WATER COST SAVINGS.—Water cost savings realized under this section shall be used as provided in section 2865(b)(2) of this title.”

1996—Subsec. (c)(2). Pub. L. 104-106 substituted “appropriate committees of Congress” for “Committees on

Armed Services and Appropriations of the Senate and House of Representatives”.

§ 2867. Sale of electricity from alternate energy and cogeneration production facilities

(a) The Secretary of a military department may sell, contract to sell, or authorize the sale by a contractor to a public or private utility company of electrical energy generated from alternate energy or cogeneration type production facilities which are under the jurisdiction (or produced on land which is under the jurisdiction) of the Secretary concerned. The sale of such energy shall be made under such regulations, for such periods, and at such prices as the Secretary concerned prescribes consistent with the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2601 et seq.).

(b)(1) Proceeds from sales under subsection (a) shall be credited to the appropriation account currently available to the military department concerned for the supply of electrical energy.

(2) Subject to the availability of appropriations for this purpose, proceeds credited under paragraph (1) may be used to carry out military construction projects under the energy performance plan developed by the Secretary of Defense under section 2865(a) of this title, including minor military construction projects authorized under section 2805 of this title that are designed to increase energy conservation.

(c) Before carrying out a military construction project described in subsection (b) using proceeds from sales under subsection (a), the Secretary concerned shall notify Congress in writing of the project, the justification for the project, and the estimated cost of the project. The project may be carried out only after the end of the 21-day period beginning on the date the notification is received by Congress 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.

(Added Pub. L. 98-407, title VIII, §810(a), Aug. 28, 1984, 98 Stat. 1523, §2483; amended Pub. L. 103-160, div. B, title XXVIII, §2802, Nov. 30, 1993, 107 Stat. 1884; renumbered §2867, Pub. L. 105-85, div. A, title III, §371(b)(2), Nov. 18, 1997, 111 Stat. 1705; Pub. L. 108-136, div. A, title X, §1031(a)(49), Nov. 24, 2003, 117 Stat. 1602.)

REFERENCES IN TEXT

The Public Utility Regulatory Policies Act of 1978, referred to in subsec. (a), is Pub. L. 95-617, Nov. 9, 1978, 92 Stat. 3117, as amended. For complete classification of this Act to the Code, see Short Title note set out under section 2601 of Title 16, Conservation, and Tables.

AMENDMENTS

2003—Subsec. (c). Pub. L. 108-136 inserted before period at end “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”.

1997—Pub. L. 105-85 renumbered section 2483 of this title as this section.

1993—Subsec. (b). Pub. L. 103-160, §2802(a), designated existing provisions as par. (1) and added par. (2).

Subsec. (c). Pub. L. 103-160, §2802(b), added subsec. (c).

§ 2868. Utility services: furnishing for certain buildings

Appropriations for the Department of Defense may be used for utility services for buildings constructed at private cost, as authorized by law.

(Added Pub. L. 100-370, §1(j)(1), July 19, 1988, 102 Stat. 848, §2490; renumbered §2868, Pub. L. 105-85, div. A, title III, §371(b)(2), Nov. 18, 1997, 111 Stat. 1705; amended Pub. L. 108-375, div. A, title VI, §651(e)(2), Oct. 28, 2004, 118 Stat. 1972.)

HISTORICAL AND REVISION NOTES

Section is based on Pub. L. 99-190, §101(b) [title VIII, §8006(b)], Dec. 19, 1985, 99 Stat. 1185.

In two instances, the source section for provisions to be codified provides that defense appropriations may be used for “welfare and recreation” or “welfare and recreational” purposes. (Section 735 of Public Law 98-212 and section 8006(b) of Public Law 99-190, to be codified as 10 U.S.C. 2241(a)(1) and 2490(2), respectively). The committee added the term “morale” in both of these two instances to conform to the usual “MWR” usage for morale, welfare, and recreation activities.

AMENDMENTS

2004—Pub. L. 108-375 substituted “for buildings constructed at private cost, as authorized by law.” for “for—

“(1) buildings constructed at private cost, as authorized by law; and

“(2) buildings on military reservations authorized by regulation to be used for morale, welfare, and recreational purposes.”

1997—Pub. L. 105-85 renumbered section 2490 of this title as this section.

§ 2869. Conveyance of property at military installations closed or realigned to support military construction

(a) CONVEYANCE AUTHORIZED; CONSIDERATION.—The Secretary concerned may enter into an agreement to convey real property, including any improvements thereon, located on a military installation that is closed or realigned under a base closure law to any person who agrees, in exchange for the real property—

(1) to carry out a military construction project or land acquisition; or

(2) to transfer to the Secretary concerned housing that is constructed or provided by the person and located at or near a military installation at which there is a shortage of suitable military family housing, military unaccompanied housing, or both.

(b) CONDITIONS ON CONVEYANCE AUTHORITY.—The fair market value of the military construction, military family housing, or military unaccompanied housing to be obtained by the Secretary concerned under subsection (a) in exchange for the conveyance of real property by the Secretary under such subsection shall be at least equal to the fair market value of the conveyed real property, as determined by the Secretary. If the fair market value of the military construction, military family housing, or military unaccompanied housing is less than the fair market value of the real property to be conveyed, the recipient of the property shall pay to the United States an amount equal to the difference in the fair market values.

(c) PILOT PROGRAM FOR USE OF AUTHORITY.—(1) To the maximum extent practicable, the Sec-

retary of each military department shall use the conveyance authority provided by subsection (a) at least once before December 31, 2004, for the purposes specified in such subsection.

(2) The value of the consideration received by the Secretary concerned in a conveyance carried out under this subsection shall not be less than \$1,000,000.

(3) In the case of the report required under subsection (f) to be submitted in 2005, the Secretary of Defense shall include the following:

(A) A description of the conveyances carried out or proposed under this subsection.

(B) A description of the procedures utilized to enter into any agreements for the conveyance of property under this subsection.

(C) An assessment of the utility of such procedures for the disposal of property at military installations closed or realigned under the base closure laws, and for securing services described in subsection (a), including an assessment of any time saved and cost-savings achieved as a result of the use of the conveyance authority provided by this section.

(D) An assessment of private sector interest in the use of the conveyance authority provided by this section.

(E) A description of the projects for which the Secretary concerned considered using the conveyance authority provided by this section, but did not do so, and an explanation of the decision.

(d) ADVANCE NOTICE OF USE OF AUTHORITY.—(1) Notice of the proposed use of the conveyance authority provided by subsection (a) shall be provided in such manner as the Secretary of Defense may prescribe, including publication in the Federal Register and otherwise. When real property located at a military installation closed or realigned under the base closure laws is to be conveyed by means of a public sale, the Secretary concerned may notify prospective purchasers that consideration for the property may be provided in the manner authorized by such subsection.

(2) The Secretary concerned may not enter into an agreement under subsection (a) for the conveyance of real property until—

(A) the Secretary submits to Congress notice of the conveyance, including the military construction activities, military family housing, or military unaccompanied housing to be obtained in exchange for the conveyance; and

(B) a period of 14 days expires beginning on the date on which the notice is submitted.

(e) DEPOSIT OF FUNDS.—The Secretary concerned may deposit funds received under subsection (b) in the Department of Defense housing funds established under section 2883(a) of this title.

(f) ANNUAL REPORT.—In the budget materials submitted to Congress in connection with the submission of the budget for a fiscal year pursuant to section 1105 of title 31, the Secretary of Defense shall include a report detailing the following:

(1) The extent to which the Secretaries concerned used the authority provided by subsection (a) during the preceding fiscal year to convey real property in exchange for military