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S.2514

National Defense Authorization Act for Fiscal Year 2003 (Placed on Calendar in Senate)

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SEC. 2811. AGREEMENTS WITH PRIVATE ENTITIES TO ENHANCE MILITARY TRAINING, TESTING, AND OPERATIONS.

(a) IN GENERAL- Chapter 159 of title 10, United States Code, is amended by inserting after section 2696 the following new section:

Sec. 2697. Agreements with private entities to enhance military training, testing, and operations

(a) AGREEMENTS WITH PRIVATE ENTITIES AUTHORIZED- The Secretary of Defense or the Secretary

of a military department may enter into an agreement with a private entity described in subsection (b) to address the use or development of real property in the vicinity of an installation under the jurisdiction of such Secretary for purposes of--

(1) limiting any development or use of such property that would otherwise be incompatible with the mission of such installation; or

(2) preserving habitat on such property in a manner that is compatible with both--

(A) current or anticipated environmental requirements that would or might otherwise restrict, impede, or otherwise interfere, whether directly or indirectly, with current or anticipated military training, testing, or operations on such installation; and

(B) current or anticipated military training, testing, or operations on such installation.

(b) COVERED PRIVATE ENTITIES- A private entity described in this subsection is any private entity that has as its stated principal organizational purpose or goal the conservation, restoration, or preservation of land and natural resources, or a similar purpose or goal.

(c) INAPPLICABILITY OF CERTAIN CONTRACT REQUIREMENTS- Chapter 63 of title 31 shall not apply to any agreement entered into under this section.

`(d) ACQUISITION AND ACCEPTANCE OF PROPERTY AND INTERESTS- (1) Subject to the provisions of this subsection, an agreement with a private entity under this section--

`(A) may provide for the private entity to acquire all right, title, and interest in and to any real property, or any lesser interest therein, as may be appropriate for purposes of this section; and

`(B) shall provide for the private entity to transfer to the United States, upon the request of the United States, any property or interest so acquired.

`(2) Property or interests may not be acquired pursuant to an agreement under this section unless the owner of such property or interests, as the case may be, consents to the acquisition.

`(3) An agreement under this section providing for the acquisition of property or interests under paragraph (1)(A) shall provide for the sharing by the United States and the private entity concerned of the costs of the acquisition of such property or interests.

`(4) The Secretary concerned shall identify any property or interests to be acquired pursuant to an agreement under this section. Such property or interests shall be limited to the minimum property or interests necessary to ensure that the property concerned is developed and used in a manner appropriate for purposes of this section.

`(5) The Secretary concerned may accept on behalf of the United States any property or interest to be transferred to the United States under paragraph (1)(B).

`(6) The Secretary concerned may, for purposes of the acceptance of property or interests under this subsection, accept an appraisal or title documents prepared or adopted by a non-Federal entity as satisfying the applicable requirements of section 301 of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4651) or section 355 of the Revised Statutes (40 U.S.C. 255) if the Secretary finds that such appraisal or title documents substantially comply with such requirements.

`(e) ADDITIONAL TERMS AND CONDITIONS- The Secretary concerned may require such additional terms and conditions in an agreement under this section as such Secretary considers appropriate to protect the interests of the United States.

`(f) FUNDING- (1) Except as provided in paragraph (2), amounts authorized to be appropriated to the Range Enhancement Initiative Fund of the Department of Defense are available for purposes of any agreement under this section.

`(2) In the case of an installation operated primarily with funds authorized to be appropriated for research, development, test, and evaluation, funds authorized to be appropriated for the Department of Defense, or the military department concerned, for research, development, test, and evaluation are available for purposes of an agreement under this section with respect to such installation.

`(3) Amounts in the Fund that are made available for an agreement of a military department under this section shall be made available by transfer from the Fund to the applicable operation and maintenance account of the military department, including the operation and maintenance account for the active component, or for a reserve component, of the military department.'

(b) CLERICAL AMENDMENT- The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 2696 the following new item:

2697. *Agreements with private entities to enhance military training, testing, and operations.*

SEC. 2812. CONVEYANCE OF SURPLUS REAL PROPERTY FOR NATURAL RESOURCE CONSERVATION.

(a) IN GENERAL- (1) Chapter 159 of title 10, United States Code, as amended by section 2811 of this Act, is further amended by inserting after section 2697 the following new section:

Sec. 2698. Conveyance of surplus real property for natural resource conservation

(a) **AUTHORITY TO CONVEY**- Subject to subsection (c), the Secretary of a military department may, in the sole discretion of such Secretary, convey to any State or local government or instrumentality thereof, or private entity that has as its primary purpose or goal the conservation of open space or natural resources on real property, all right, title, and interest of the United States in and to any real property, including any improvements thereon, under the jurisdiction of such Secretary that is described in subsection (b).

(b) **COVERED REAL PROPERTY**- Real property described in this subsection is any property that--

(1) is suitable, as determined by the Secretary concerned, for use for the conservation of open space or natural resources;

(2) is surplus property for purposes of title II of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 471 et seq.); and

(3) has been available for public benefit conveyance under that title for a sufficient time, as determined by the Secretary concerned in consultation with the Administrator of General Services, to permit potential claimants to seek public benefit conveyance of such property, but without the submittal during that time of a request for such conveyance.

(c) **CONDITIONS OF CONVEYANCE**- Real property may not be conveyed under this section unless the conveyee of such property agrees that such property--

(1) shall be used and maintained for the conservation of open space or natural resources in perpetuity, unless otherwise provided for under subsection (e); and

(2) may be subsequently conveyed only if--

(A) the Secretary concerned approves in writing such subsequent conveyance;

(B) the Secretary concerned notifies the appropriate committees of Congress of the subsequent conveyance not later than 21 days before the subsequent conveyance; and

(C) after such subsequent conveyance, shall be used and maintained for the conservation of open space or natural resources in perpetuity, unless otherwise

provided for under subsection (e).

`(d) USE FOR INCIDENTAL PRODUCTION OF REVENUE- Real property conveyed under this section may be used for the incidental production of revenue, as determined by the Secretary concerned, if such production of revenue is compatible with the use of such property for the conservation of open space or natural resources, as so determined.

`(e) REVERSION- If the Secretary concerned determines at any time that real property conveyed under this section is not being used and maintained in accordance with the agreement of the conveyee under subsection (c), all right, title, and interest in and to such real property, including any improvements thereon, shall revert to the United States, and the United States shall have the right of immediate entry thereon.

`(f) PROPERTY UNDER BASE CLOSURE LAWS- The Secretary concerned may not make a conveyance under this section of any real property to be disposed of under a base closure law in a manner that is inconsistent with the requirements and conditions of such base closure law.

`(g) ADDITIONAL TERMS AND CONDITIONS- The Secretary concerned may establish such additional terms and conditions in connection with a conveyance of real property under this section as such Secretary considers appropriate to protect the interests of the United States.

`(h) DEFINITIONS- In this section:

`(1) The term `appropriate committees of Congress' has the meaning given that term in section 2801(c)(4) of this title.

`(2) The term `State' includes the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Marianas, and the territories and possessions of the United States.

`(3) The term `base closure law' means the following:

`(A) Section 2687 of this title.

`(B) Title II of the Defense Authorization Amendments and Base Closure and Realignment Act of 1988 (10 U.S.C. 2687 note).

`(C) 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).

`(D) Any other similar authority for the closure or realignment of military installations that is enacted after the date of the enactment of the National Defense Authorization Act for Fiscal Year 2003.'

(2) The table of sections at the beginning of chapter 159 of that title, as amended by section 2811 of this Act, is further amended by inserting after the item relating to section 2687 the following new item:

`2698. Conveyance of surplus real property for natural resource conservation.'

(b) ACCEPTANCE OF FUNDS TO COVER ADMINISTRATIVE EXPENSES- Section 2695(b) of that title is amended by adding at the end the following new paragraph:

“(5) The conveyance of real property under section 2698 of this title.”

(c) AGREEMENTS WITH PRIVATE ENTITIES- Section 2701(d) of that title is amended--

(1) in paragraph (1), by striking “with any State or local government agency, or with any Indian tribe,” and inserting “any State or local government agency, any Indian tribe, or, for purposes under section 2697 or 2698 of this title, with any private entity”; and

(2) by striking paragraph (4), as redesignated by section 311(1) of this Act, and inserting the following new paragraph (4):

“(4) DEFINITIONS- In this subsection:

“(A) The term “Indian tribe” has the meaning given such term in section 101(36) of Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601(36)).

“(B) The term “private entity” means any private entity that has as its stated principal organizational purpose or goal the conservation, restoration, or preservation of land and natural resources, or a similar purpose or goal.”

SEC. 2813. MODIFICATION OF DEMONSTRATION PROGRAM ON REDUCTION IN LONG-TERM FACILITY MAINTENANCE COSTS.

(a) ADMINISTRATOR OF PROGRAM- Subsection (a) of section 2814 of the Military Construction Authorization Act for Fiscal Year 2002 (division B of Public Law 107-107; 115 Stat. 1310; 10 U.S.C. 2809 note) is amended by striking “Secretary of the Army” and inserting “Secretary of Defense or the Secretary of a military department”.

(b) CONTRACTS- Subsection (b) of that section is amended to read as follows:

“(b) CONTRACTS- (1) Not more than 12 contracts may contain requirements referred to in subsection (a) for the purpose of the demonstration program.

“(2) Except as provided in paragraph (3), the demonstration program may only cover contracts entered into

on or after the date of the enactment of the National Defense Authorization Act for Fiscal Year 2003.

“(3) The Secretary of the Army shall treat any contract containing requirements referred to in subsection (a) that was entered into under the authority in that subsection during the period beginning on December 28, 2001, and ending on the date of the enactment of the National Defense Authorization Act for Fiscal Year 2003 as a contract for the purpose of the demonstration program under that subsection.”

(c) REPORTING REQUIREMENTS- Subsection (d) of that section is amended by striking “Secretary of the Army” and inserting “Secretary of Defense”.