

inserted to reflect 50:886(b), since the source statute applied to the District of Columbia and there is no “governor” of the District of Columbia. The words “as the case may be” are substituted for the words “within which such unit is situated”. The words “with regard to such withdrawal or change of location” are omitted as surplusage.

## 1958 ACT

Revised section	Source (U.S. Code)	Source (Statutes at Large)
2238 .....	50:883(b).	Aug. 9, 1955, ch. 662, §1(c), 69 Stat. 593.

The words “shall have been consulted” and “such withdrawal or change of location” are omitted as surplusage.

## AMENDMENTS

1994—Pub. L. 103-337 renumbered section 2238 of this title as this section.

1982—Pub. L. 97-214 substituted “or, in the case of the District of Columbia, the commanding general of the National Guard of the District of Columbia” for “or Territory, or Puerto Rico, or the commanding general of the District of Columbia, as the case may be”.

1958—Pub. L. 85-861 required the consent of the governor, or the commanding general of the National Guard of the District of Columbia, prior to relocation or withdrawal.

## EFFECTIVE DATE OF 1982 AMENDMENT

Amendment by Pub. L. 97-214 effective Oct. 1, 1982, and applicable to military construction projects, and to construction and acquisition of military family housing authorized before, on, or after such date, see section 12(a) of Pub. L. 97-214, set out as an Effective Date note under section 2801 of this title.

## § 18239. Waiver of certain restrictions

(a) The Secretary of Defense and the Secretary of each military department may make expenditures and contributions under section 18233 of this title without regard to section 3324(a) and (b) of title 31.

(b) Authority provided by law to place permanent or temporary improvements on land under section 18233 of this title may be exercised on land not owned by the United States—

(1) before title to the land on which the improvement is located (or is to be located) is approved under section 3111 of title 40; and

(2) even though the land will be held in other than a fee simple interest in a case in which the Secretary of the military department concerned determines that the interest to be acquired in the land is sufficient for the purposes of the project.

(Added Pub. L. 97-214, §3(b)(1), July 12, 1982, 96 Stat. 169, §2239; amended Pub. L. 97-295, §1(23), Oct. 12, 1982, 96 Stat. 1290; Pub. L. 97-321, title VIII, §805(a)(2), Oct. 15, 1982, 96 Stat. 1573; renumbered §18239 and amended Pub. L. 103-337, div. A, title XVI, §1664(b)(2), (10), Oct. 5, 1994, 108 Stat. 3010, 3011; Pub. L. 107-217, §3(b)(42), Aug. 21, 2002, 116 Stat. 1298.)

## AMENDMENTS

2002—Subsec. (b)(1). Pub. L. 107-217 substituted “section 3111 of title 40” for “section 355 of the Revised Statutes (40 U.S.C. 255)”.

1994—Pub. L. 103-337, §1664(b)(2), renumbered section 2239 of this title as this section.

Subsecs. (a), (b). Pub. L. 103-337, §1664(b)(10), substituted “18233” for “2233”.

1982—Subsec. (a). Pub. L. 97-295 substituted “section 3324(a) and (b) of title 31” for “section 3648 of the Revised Statutes (31 U.S.C. 529)”.

Subsec. (b). Pub. L. 97-321, in introductory text, substituted “on land” for “on lands” and inserted “on land not owned by the United States”; redesignated former cl. (1) as par. (1); added par. (2) and struck out former cl. (2) “even though the land is held temporarily”.

## EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103-337 effective Dec. 1, 1994, except as otherwise provided, see section 1691 of Pub. L. 103-337, set out as an Effective Date note under section 10001 of this title.

## EFFECTIVE DATE

Section effective Oct. 1, 1982, and applicable to military construction projects, and to construction and acquisition of military family housing authorized before, on, or after such date, see section 12(a) of Pub. L. 97-214, set out as a note under section 2801 of this title.

## § 18240. Acquisition of facilities by exchange

(a) EXCHANGE AUTHORITY.—In addition to the acquisition authority provided by section 18233 of this title, the Secretary of Defense may authorize the Secretary of a military department to acquire a facility, or addition to an existing facility, needed to satisfy military requirements for a reserve component by carrying out an exchange of an existing facility under the control of that Secretary through an agreement with an Executive agency (as defined in section 105 of title 5), the United States Postal Service, or a State, local government, local authority, or private entity. The acquisition of a facility or an addition to an existing facility under this section may include the acquisition of utilities, equipment, and furnishings for the facility.

(b) FACILITIES ELIGIBLE FOR EXCHANGE.—Only a facility of a reserve component that is not excess property (as defined in section 102(3) of title 40) may be exchanged using the authority provided by this section.

(c) EQUAL VALUE EXCHANGE.—In any exchange carried out using the authority provided by this section, the value of the replacement facility, or addition to an existing facility, including any utilities, equipment, and furnishings, to be acquired by the United States shall be at least equal to the fair market value of the facility conveyed by the United States under the agreement. If the values are unequal, the values may not be equalized by any payment of cash consideration by either party to the agreement.

(d) REQUIREMENTS FOR REPLACEMENT FACILITIES.—The Secretary of a military department may not accept a replacement facility, or addition to an existing facility, to be acquired by the United States in an exchange carried out using the authority provided by this section until that Secretary determines that the facility or addition—

(1) is complete and usable, fully functional, and ready for occupancy;

(2) satisfies all operational requirements; and

(3) meets all applicable Federal, State, and local requirements relating to health, safety, fire, and the environment.

(e) CONSULTATION REQUIREMENTS.—The Secretary of a military department authorized to

enter into an agreement under subsection (a) to convey an existing facility under the control of that Secretary by exchange shall consult with representatives of other reserve components to evaluate—

(1) the value of using the facility to meet the military requirements of another reserve component, instead of conveying the facility under this section; and

(2) the feasibility of using the conveyance of the facility to acquire a facility, or an addition to an existing facility, that would be jointly used by more than one reserve component or unit.

(f) ADVANCE NOTICE OF PROPOSED EXCHANGE.—

(1) When a decision is made to enter into an agreement under subsection (a) to exchange a facility using the authority provided by this section, the Secretary of the military department authorized to enter into the agreement shall submit to the congressional defense committees a report on the proposed agreement. The report shall include the following:

(A) A description of the agreement, including the terms and conditions of the agreement, the parties to be involved in the agreement, the origin of the proposal that lead to the agreement, the intended use of the facility to be conveyed by the United States under the agreement, and any costs to be incurred by the United States to make the exchange under the agreement.

(B) A description of the facility to be conveyed by the United States under the agreement, including the current condition and fair market value of the facility, and a description of the method by which the fair market value of the facility was determined.

(C) Information on the facility, or addition to an existing facility, to be acquired by the United States under the agreement and the intended use of the facility or addition, which shall meet requirements for information provided to Congress for military construction projects to obtain a similar facility or addition to an existing facility.

(D) A certification that the Secretary complied with the consultation requirements under subsection (e).

(E) A certification that the conveyance of the facility under the agreement is in the best interests of the United States and that the Secretary used competitive procedures to the maximum extent practicable to protect the interests of the United States.

(2) The agreement described in a report prepared under paragraph (1) may be entered into, and the exchange covered by the agreement made, only after the end of the 21-day period beginning on the date the report is received by the congressional defense committees in an electronic medium pursuant to section 480 of this title.

(3) Section 2662 of this title shall not apply to an exchange carried out using the authority provided by this section.

(g) RELATION TO OTHER MILITARY CONSTRUCTION REQUIREMENTS.—The acquisition of a facility, or an addition to an existing facility, using the authority provided by this section shall not

be treated as a military construction project for which an authorization is required by section 2802 of this title.

(Added Pub. L. 108-375, div. B, title XXVIII, §2809(a)(1), Oct. 28, 2004, 118 Stat. 2125; amended Pub. L. 109-163, div. B, title XXVIII, §2808(a), Jan. 6, 2006, 119 Stat. 3508; Pub. L. 110-181, div. B, title XXVIII, §2807, Jan. 28, 2008, 122 Stat. 541; Pub. L. 115-91, div. B, title XXVIII, §2801(g), Dec. 12, 2017, 131 Stat. 1845.)

#### AMENDMENTS

2017—Subsec. (f)(2). Pub. L. 115-91 substituted “21-day period” for “30-day period” and struck out “or, if earlier, the end of the 21-day period beginning on the date on which a copy of the report is provided” after “defense committees”.

2008—Subsec. (a). Pub. L. 110-181 substituted “with an Executive agency (as defined in section 105 of title 5), the United States Postal Service, or a State” for “with a State”.

2006—Subsec. (a). Pub. L. 109-163, §2808(a)(1), inserted at end “The acquisition of a facility or an addition to an existing facility under this section may include the acquisition of utilities, equipment, and furnishings for the facility.”

Subsec. (c). Pub. L. 109-163, §2808(a)(2), inserted “including any utilities, equipment, and furnishings, to be” after “existing facility.”

#### TEMPORARY AUTHORITY TO INCLUDE CASH EQUALIZATION PAYMENTS IN EXCHANGE

Pub. L. 108-375, div. B, title XXVIII, §2809(c), Oct. 28, 2004, 118 Stat. 2127, as amended by Pub. L. 109-163, div. B, title XXVIII, §2808(b), Jan. 6, 2006, 119 Stat. 3508; Pub. L. 110-181, div. B, title XXVIII, §2805, Jan. 28, 2008, 122 Stat. 540, provided that:

“(1) Notwithstanding subsection (c) of section 18240 of title 10, United States Code, as added by subsection (a), the Secretary of Defense may authorize the Secretary of a military department, as part of an exchange agreement under such section, to make or accept a cash equalization payment if the value of the facility, or addition to an existing facility, including any utilities, equipment, and furnishings, to be acquired by the United States under the agreement is not equal to the fair market value of the facility to be conveyed by the United States under the agreement. All other requirements of such section shall continue to apply to the exchange.

“(2) Cash equalization payments received by the Secretary of a military department under this subsection shall be deposited in a separate account in the Treasury. Amounts in the account shall be available to the Secretary of Defense, without further appropriation and until expended, for transfer to the Secretary of a military department—

“(A) to make any cash equalization payments required to be made by the United States in connection with an exchange agreement covered by this subsection, and the account shall be the only source for such payments; and

“(B) to cover costs associated with the maintenance, protection, alteration, repair, improvement, or restoration (including environmental restoration) of facilities, and additions to existing facilities, acquired using an exchange agreement covered by this subsection.

“(3) Not more than 15 exchange agreements under section 18240 of title 10, United States Code, may include the exception for cash equalization payments authorized by this subsection. Of those 15 exchange agreements, not more than eight may be for the same reserve component.

“(4) In this section, the term ‘facility’ has the meaning given that term in section 18232(2) of title 10, United States Code.

“(5) No cash equalization payment may be made or accepted under the authority of this subsection after

September 30, 2010. Except as otherwise specifically authorized by law, the authority provided by this subsection to make or accept cash equalization payments in connection with the acquisition or disposal of facilities of the reserve components is the sole authority available in law to the Secretary of Defense or the Secretary of a military department for that purpose.

“(6) Not later than March 1, 2008, the Secretary of Defense shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a report on the exercise of the authority provided by this subsection. The report shall include the following:

“(A) A description of the exchange agreements under section 18240 of title 10, United States Code, that included the authority to make or accept cash equalization payments.

“(B) A description of the analysis and criteria used to select such agreements for inclusion of the authority to make or accept cash equalization payments.

“(C) An assessment of the utility to the Department of Defense of the authority, including recommendations for modifications of such authority in order to enhance the utility of such authority for the Department.

“(D) An assessment of interest in the future use of the authority, in the event the authority is extended.

“(E) An assessment of the advisability of making the authority, including any modifications of the authority recommended under subparagraph (C), permanent.”

#### CHAPTER 1805—MISCELLANEOUS PROVISIONS

Sec.	
18501.	Reserve components: personnel and logistic support by military departments.
18502.	Reserve components: supplies, services, and facilities.
18505.	Reserves traveling for inactive-duty training: space-required travel on military aircraft.
[18506.]	Repealed.]

#### AMENDMENTS

2006—Pub. L. 109-163, div. A, title V, § 589(b)(1), Jan. 6, 2006, 119 Stat. 3279, struck out item 18506 “Recruitment and retention: availability of funds for recognition items for Army Reserve personnel”.

2004—Pub. L. 108-375, div. A, title V, § 520(a)(2), Oct. 28, 2004, 118 Stat. 1886, added item 18506.

2001—Pub. L. 107-107, div. A, title V, § 518(b), Dec. 28, 2001, 115 Stat. 1096, struck out “annual training duty or” before “inactive-duty training:” in item 18505.

2000—Pub. L. 106-398, § 1 [[div. A], title III, § 384(b)(2)], Oct. 30, 2000, 114 Stat. 1654, 1654A-87, substituted “Reserves traveling for annual training duty or inactive-duty training: space-required travel on military aircraft” for “Reserves traveling to inactive-duty training OCONUS: authority for space-required travel” in item 18505.

1999—Pub. L. 106-65, div. A, title V, § 517(a)(2), Oct. 5, 1999, 113 Stat. 595, added item 18505.

#### § 18501. Reserve components: personnel and logistic support by military departments

The Secretary concerned is responsible for providing the personnel, equipment, facilities, and other general logistic support necessary to enable units and Reserves in the Ready Reserve of the reserve components under his jurisdiction to satisfy the training requirements and mobilization readiness requirements for those units and Reserves as recommended by the Secretary concerned and by the Chairman of the Joint Chiefs of Staff and approved by the Secretary of Defense, and as recommended by the Com-

mandant of the Coast Guard and approved by the Secretary of Homeland Security when the Coast Guard is not operated as a service of the Navy.

(Added Pub. L. 103-337, div. A, title XVI, § 1664(c)(1), Oct. 5, 1994, 108 Stat. 3011; amended Pub. L. 107-296, title XVII, § 1704(b)(1), Nov. 25, 2002, 116 Stat. 2314.)

#### PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 264(b) of this title, prior to repeal by Pub. L. 103-337, § 1661(a)(2)(A).

#### AMENDMENTS

2002—Pub. L. 107-296 substituted “of Homeland Security” for “of Transportation”.

#### EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107-296 effective on the date of transfer of the Coast Guard to the Department of Homeland Security, see section 1704(g) of Pub. L. 107-296, set out as a note under section 101 of this title.

#### EFFECTIVE DATE

Section effective Dec. 1, 1994, except as otherwise provided, see section 1691 of Pub. L. 103-337, set out as a note under section 10001 of this title.

#### § 18502. Reserve components: supplies, services, and facilities

(a) The Secretary concerned shall make available to the reserve components under his jurisdiction the supplies, services, and facilities of the armed forces under his jurisdiction that he considers necessary to support and develop those components.

(b) Whenever he finds it to be in the best interest of the United States, the Secretary concerned may issue supplies of the armed forces under his jurisdiction to the reserve components without charge to the appropriations for those components for the cost or value of the supplies or for any related expense.

(c) Whenever he finds it to be in the best interest of the United States, the Secretary of the Army or the Secretary of the Air Force may issue to the Army National Guard or the Air National Guard, as the case may be, supplies of the armed forces under his jurisdiction that are in addition to supplies issued to that National Guard under section 702 of title 32 or charged against its appropriations under section 106 or 107 of title 32, without charge to the appropriations for those components for the cost or value of the supplies or for any related expense.

(d) Supplies issued under subsection (b) or (c) may be repossessed or redistributed as prescribed by the Secretary concerned.

(Added Pub. L. 103-337, div. A, title XVI, § 1664(c)(1), Oct. 5, 1994, 108 Stat. 3012.)

#### PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 2540 of this title, prior to repeal by Pub. L. 103-337, § 1664(c)(2).

#### EFFECTIVE DATE

Section effective Dec. 1, 1994, except as otherwise provided, see section 1691 of Pub. L. 103-337, set out as a note under section 10001 of this title.