

tions where commercial alternatives, through major grocery retailers, may be available.

“(2) An analysis of different pricing constructs to improve or enhance the delivery of commissary and exchange benefits.

“(3) A description of the impact of any modifications described pursuant to paragraph (1) on Morale, Welfare and Recreation (MWR) quality-of-life programs.

“(4) Such recommendations for legislative action as the Secretary considers appropriate to achieve by October 1, 2018, budget-neutrality in the delivery of commissary and exchange benefits while meeting the benchmarks set forth in subsection (c).

“(c) BENCHMARKS.—The report required by subsection (a) shall ensure—

“(1) the maintenance of high levels of customer satisfaction in the delivery of commissary and exchange benefits;

“(2) the provision of high quality products; and

“(3) the sustainment of discount savings to eligible beneficiaries.

“(d) COMPTROLLER GENERAL ASSESSMENT OF PLAN.—Not later than 120 days after the submittal of the report required by subsection (a), the Comptroller General of the United States shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report setting forth an assessment by the Comptroller General of the plan to achieve budget-neutrality in the delivery of commissary and exchange benefits while meeting the benchmarks set forth in subsection (c) as set forth in the report required by subsection (a).

“(e) PILOT PROGRAMS.—

“(1) PROGRAMS AUTHORIZED.—After the reports required by subsections (a) and (d) have been submitted as described in such subsections, the Secretary may, notwithstanding any requirement in chapter 147 of title 10, United States Code, conduct one or more pilot programs to evaluate the feasibility and advisability of processes and methods for achieving budget-neutrality in the delivery of commissary and exchange benefits and other applicable benchmarks in accordance with this section. The Secretary may authorize any commissary or exchange, or private sector entity, participating in any such pilot program to establish appropriate prices in response to market conditions and customer demand, provided that the level of savings required by paragraph (3) is maintained.

“(2) BENCHMARKS.—If the Secretary conducts a pilot program under this subsection, the Secretary shall establish specific, measurable benchmarks for measuring success in the provision of high quality grocery goods and products, discount savings to patrons, and high levels of customer satisfaction while achieving budget-neutrality in the delivery of commissary and exchange benefits under the pilot program.

“(3) REQUIRED SAVINGS TO PATRONS.—The Secretary shall ensure that the level of savings to commissary and exchange patrons under any pilot program under this subsection is not less than the level of savings to such patrons before the implementation of such pilot program, as follows:

“(A) Before commencing a pilot program the Secretary shall establish a baseline of savings to patrons achieved for each commissary or exchange to participate in such pilot program by comparing prices charged by such commissary or exchange for a representative market basket of goods to prices charged by local competitors for the same market basket of goods.

“(B) After commencement of such pilot program, the Secretary shall ensure that each commissary or exchange, or private sector entity, participating in such pilot program conducts market-basket price comparisons not less than once a month and adjusts pricing as necessary to ensure that pricing achieves savings to patrons under such pilot program that are reasonably consistent with the baseline savings

for the commissary or exchange established pursuant to subparagraph (A).

“(4) DURATION OF AUTHORITY.—The authority of the Secretary to carry out a pilot program under this subsection shall expire on the date that is five years after the date of the enactment of this Act [Nov. 25, 2015]. However, if a pilot program achieves budget-neutrality in the delivery of commissary and exchange benefits and other applicable benchmarks, as measured using the benchmarks required by paragraph (2), the Secretary may continue the pilot program for an additional period of up to five years.

“(5) REPORTS.—

“(A) INITIAL REPORTS.—If the Secretary conducts a pilot program under this subsection, the Secretary shall, not later than 30 days before commencing the pilot program, submit to the Committees on Armed Services of the Senate and the House of Representatives a report on the pilot program, including the following:

“(i) A description of the pilot program.

“(ii) The provisions, if any, of chapter 147 of title 10, United States Code, that will be waived in the conduct of the pilot program.

“(B) FINAL REPORTS.—Not later than 90 days after the date of the completion of any pilot program under this subsection or the date of the commencement of an extension of a pilot program under paragraph (4), the Secretary shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report on the pilot program, including the following:

“(i) A description and assessment of the pilot program.

“(ii) Such recommendations for administrative or legislative action as the Secretary considers appropriate in light of the pilot program.”

#### § 2482. Commissary stores: criteria for establishment or closure; store size

(a) PRIMARY CONSIDERATION FOR ESTABLISHMENT.—The needs of members of the armed forces on active duty and the needs of dependents of such members shall be the primary consideration whenever the Secretary of Defense—

(1) assesses the need to establish a commissary store; and

(2) selects the actual location for the store.

(b) STORE SIZE.—In determining the size of a commissary store, the Secretary of Defense shall take into consideration the number of all authorized patrons of the defense commissary system who are likely to use the store.

(c) CLOSURE CONSIDERATIONS.—(1) Whenever assessing whether to close a commissary store, the effect of the closure on the quality of life of members and dependents referred to in subsection (a) who use the store and on the welfare and security of the military community in which the commissary is located shall be a primary consideration.

(2) Whenever assessing whether to close a commissary store, the Secretary of Defense shall also consider the effect of the closure on the quality of life of members of the reserve components of the armed forces.

(d) CONGRESSIONAL NOTIFICATION.—(1) The closure of a commissary store in the United States shall not take effect until the end of the 90-day period beginning on the date on which the Secretary of Defense submits to Congress written notice of the reasons supporting the closure. The written notice shall include an assessment of the impact closure will have on the quality of

life for military patrons and the welfare and security of the military community in which the commissary is located.

(2) Paragraph (1) shall not apply in the case of the closure of a commissary store as part of the closure of a military installation under a base closure law.

(Added Pub. L. 108-375, div. A, title VI, §651(a)(3), Oct. 28, 2004, 118 Stat. 1965; amended Pub. L. 112-81, div. A, title X, §1064(6), Dec. 31, 2011, 125 Stat. 1587.)

#### Editorial Notes

##### PRIOR PROVISIONS

A prior section 2482 was renumbered section 2485 of this title.

A prior section 2482a was renumbered section 2492 of this title.

##### AMENDMENTS

2011—Subsec. (d)(1). Pub. L. 112-81 inserted “in the United States” after “commissary store”.

#### Statutory Notes and Related Subsidiaries

##### PROHIBITION ON CONSOLIDATION OR OTHER ORGANIZATIONAL CHANGES OF DEPARTMENT OF DEFENSE RETAIL SYSTEMS

Pub. L. 105-261, div. A, title III, §367, Oct. 17, 1998, 112 Stat. 1987, which provided that the operation and administration of the defense retail systems could not be consolidated or otherwise merged unless the consolidation or merger was specifically authorized by a law enacted after Oct. 17, 1998, was repealed by Pub. L. 108-375, div. A, title VI, §651(e)(3), Oct. 28, 2004, 118 Stat. 1972.

#### § 2483. Commissary stores: use of appropriated funds to cover operating expenses

(a) OPERATION OF AGENCY AND SYSTEM.—Except as otherwise provided in this title, the operation of the Defense Commissary Agency and the defense commissary system shall be funded using such amounts as are appropriated for such purpose.

(b) OPERATING EXPENSES OF COMMISSARY STORES.—Appropriated funds shall be used to cover the expenses of operating commissary stores and central product processing facilities of the defense commissary system. For purposes of this subsection, operating expenses include the following:

(1) Salaries and wages of employees of the United States, host nations, and contractors supporting commissary store operations.

(2) Utilities.

(3) Communications.

(4) Operating supplies and services.

(5) Second destination transportation costs within or outside the United States.

(6) Any cost associated with above-store-level management or other indirect support of a commissary store or a central product processing facility, including equipment maintenance and information technology costs.

(7) Advertising of commissary sales on materials available within commissary stores and at other on-base locations.

(c) SUPPLEMENTAL FUNDS FOR COMMISSARY OPERATIONS.—Amounts appropriated to cover the expenses of operating the Defense Commissary

Agency and the defense commissary system may be supplemented with additional funds from manufacturers' coupon redemption fees, handling fees for tobacco products, and other amounts received as reimbursement for other support activities provided by commissary activities. Such appropriated amounts may also be supplemented with additional funds derived from improved management practices implemented pursuant to sections 2481(c)(3) and 2487(c) of this title and the variable pricing program implemented pursuant to section 2484(i) of this title.

(Added Pub. L. 98-525, title XIV, §1401(i)(1), Oct. 19, 1984, 98 Stat. 2619, §2484; amended Pub. L. 106-398, §1 [[div. A], title III, §331(a)(1)], Oct. 30, 2000, 114 Stat. 1654, 1654A-59; Pub. L. 108-136, div. A, title VI, §654, Nov. 24, 2003, 117 Stat. 1523; renumbered §2483, Pub. L. 108-375, div. A, title VI, §651(a)(2), (4), Oct. 28, 2004, 118 Stat. 1964, 1966; Pub. L. 114-328, div. A, title VI, §661(b), Dec. 23, 2016, 130 Stat. 2169; Pub. L. 116-92, div. A, title VI, §631(d), Dec. 20, 2019, 133 Stat. 1429.)

#### Editorial Notes

##### PRIOR PROVISIONS

A prior section 2483, added Pub. L. 107-107, div. A, title III, §332(a), Dec. 28, 2001, 115 Stat. 1058, related to reimbursement for use of commissary facilities by military departments, prior to repeal by Pub. L. 108-375, div. A, title VI, §651(a)(1), Oct. 28, 2004, 118 Stat. 1964.

Another prior section 2483 was renumbered section 2916 of this title.

Provisions similar to those in this section were contained in the following appropriation acts:

Oct. 12, 1984, Pub. L. 98-473, title I, §101(h) [title VIII, §8010], 98 Stat. 1904, 1924.

Dec. 8, 1983, Pub. L. 98-212, title VII, §713, 97 Stat. 1440.

Dec. 21, 1982, Pub. L. 97-377, title I, §101(c) [title VII, §714], 96 Stat. 1833, 1852.

Dec. 29, 1981, Pub. L. 97-114, title VII, §714, 95 Stat. 1580.

Dec. 15, 1980, Pub. L. 96-527, title VII, §715, 94 Stat. 3083.

Dec. 21, 1979, Pub. L. 96-154, title VII, §715, 93 Stat. 1155.

Oct. 13, 1978, Pub. L. 95-457, title VIII, §815, 92 Stat. 1246.

Sept. 21, 1977, Pub. L. 95-111, title VIII, §814, 91 Stat. 902.

Sept. 22, 1976, Pub. L. 94-419, title VII, §714, 90 Stat. 1293.

Feb. 9, 1976, Pub. L. 94-212, title VII, §714, 90 Stat. 171.

Oct. 8, 1974, Pub. L. 93-437, title VIII, §814, 88 Stat. 1227.

Jan. 2, 1974, Pub. L. 93-238, title VII, §714, 87 Stat. 1040.

Oct. 26, 1972, Pub. L. 92-570, title VII, §714, 86 Stat. 1198.

Dec. 18, 1971, Pub. L. 92-204, title VII, §714, 85 Stat. 729.

Jan. 11, 1971, Pub. L. 91-668, title VIII, §814, 84 Stat. 2032.

Dec. 29, 1969, Pub. L. 91-171, title VI, §614, 83 Stat. 482.

Oct. 17, 1968, Pub. L. 90-580, title V, §513, 82 Stat. 1132.

Sept. 29, 1967, Pub. L. 90-96, title VI, §613, 81 Stat. 244.

Oct. 15, 1966, Pub. L. 89-687, title VI, §613, 80 Stat. 993.

Sept. 29, 1965, Pub. L. 89-213, title VI, §613, 79 Stat. 875.

Aug. 19, 1964, Pub. L. 88-446, title V, §513, 78 Stat. 477.

Oct. 17, 1963, Pub. L. 88-149, title V, §513, 77 Stat. 266.

Aug. 9, 1962, Pub. L. 87-577, title V, §513, 76 Stat. 330.

Aug. 17, 1961, Pub. L. 87-144, title VI, §613, 75 Stat. 377.

July 7, 1960, Pub. L. 86-601, title V, §513, 74 Stat. 351.