

**Editorial Notes**

## AMENDMENTS

1996—Pub. L. 104-106 substituted “not later than June 30, 1998” for “not later than five years after the date it is included within this chapter”.

1962—Pub. L. 87-719 inserted “in the case of Oak Ridge and Richland, or, in the case of Los Alamos, not later than five years after the date it is included within this chapter” after “August 4, 1955,”.

**§ 2384. Transfer to governmental entity or private nonprofit organization; determination of transferee**

(a) Transfers may be made to one or more of the following, if the entity has the legal authority to receive the installation: (1) the city at the community; (2) the State in which the community is located; (3) any political subdivision or agency of that State; or (4) a private nonprofit organization in the case of the hospital installation or cemetery at the community.

(b) In determining the entity to which school, hospital, and other municipal installations, respectively, shall be transferred, the Commission shall be governed, in order, by

(1) the results of a vote in which the eligible voters in the community expressed themselves directly on the transfer in the vote on the incorporation of the city;

(2) the results of a vote in which the eligible voters have directly expressed themselves on the proposed transfer in a referendum or other officially recognized procedure;

(3) there being only one entity which is legally authorized to receive the municipal installation; or

(4) in the absence of the other alternatives, the Commission has conducted a vote of the eligible voters of the community on the proposed transfer under such procedures as it may establish.

(Aug. 4, 1955, ch. 543, ch. 8, § 84, 69 Stat. 481.)

**Statutory Notes and Related Subsidiaries**

## TRANSFER OF FUNCTIONS

Atomic Energy Commission abolished and functions transferred by sections 5814 and 5841 of this title. See also Transfer of Functions notes set out under those sections.

**§ 2385. Installations transferable**

All municipal installations are authorized to be transferred under this subchapter, but shall not include property which the Commission determines to be needed for its own use.

(Aug. 4, 1955, ch. 543, ch. 8, § 85, 69 Stat. 481.)

**Statutory Notes and Related Subsidiaries**

## TRANSFER OF FUNCTIONS

Atomic Energy Commission abolished and functions transferred by sections 5814 and 5841 of this title. See also Transfer of Functions notes set out under those sections.

**§ 2386. Transfer of installations without charge**

The transfer of any municipal installation authorized to be made under the provisions of this subchapter may be made without charge to the entity receiving the installation.

(Aug. 4, 1955, ch. 543, ch. 8, § 86, 69 Stat. 481.)

## SUBCHAPTER VIII—LOCAL ASSISTANCE

**§ 2391. Assistance to governmental entities**

**(a) Annual assistance payments; extensions; determination of amount and recipient**

From the date of transfer of any municipal installations to a governmental or other entity at or for the community, the Administrator is authorized, for a period of ten years, to make annual assistance payments of just and reasonable sums to the State, county, or local entity having jurisdiction to collect property taxes or to the entity receiving the installation transferred hereunder: *Provided, however,* That with respect to the cities of Oak Ridge, Tennessee, and Richland, Washington, the Richland School District, the Los Alamos School Board, and the county of Los Alamos, New Mexico, the Administrator is authorized to continue to make assistance payments of just and reasonable sums after expiration of such ten-year period: *Provided further,* That the Administrator is also authorized to make payments of just and reasonable sums to Anderson County and Roane County, Tennessee. In determining the amount and recipient of such payments the Administrator shall consider—

(1) the approximate real property taxes and assessments for local improvements which would be paid to the governmental entity upon property within the community if such property were not exempt from taxation by reason of Federal ownership;

(2) the maintaining of municipal services at a level which will not impede the recruitment or retention of personnel essential to the Energy Research and Development Administration programs;

(3) the fiscal problems peculiar to the governmental entity by reason of the construction at the community as a single-purpose national defense installation under emergency conditions;

(4) the municipal services and other burdens imposed on the governmental or other entities at the community by the United States in its operations in the project area; and

(5) the tax revenues and sources available to the governmental entity, its efforts and diligence in collection of taxes, assessment of property, and the efficiency of its operations.

**(b) Special interim payments**

Special interim payments may be made under the provisions of this section to any governmental entity which—

(1) has a special burden due to the requirements under law imposed upon it in assisting in effectuating the purposes of this chapter for which it will not otherwise receive adequate compensation or revenues; or

(2) will suffer a tax loss or lapse in place of which it will not receive any other adequate revenues until the new governmental entities contemplated by this subchapter are receiving their normal taxes and performing their normal functions.

**(c) Payments for special burdens**

Payments made under this section shall be payments made for special burdens imposed on

the local governmental entities in accordance with the second sentence of section 2208 of this title. Payments may be made under this section notwithstanding the provisions of the Act of September 30, 1950<sup>1</sup> (Public Law 874, Eighty-first Congress), as amended.

**(d) Recommendation for further assistance payments**

With respect to any entity not less than six months prior to the expiration of the ten-year period referred to in subsection (a) (or not less than six months prior to June 30, 1979, in the case of the cities of Oak Ridge, Tennessee, and Richland, Washington, and the Richland School District; or not less than six months prior to June 30, 1986, in the case of Anderson County and Roane County, Tennessee; or not later than June 30, 1996, in the case of the Los Alamos School Board and the county of Los Alamos, New Mexico), the Administrator shall present to the appropriate committees of the House of Representatives and the Senate recommendations as to the need for any further assistance payments to such entity. If the recommendation under the preceding sentence regarding the Los Alamos School Board or the county of Los Alamos, New Mexico, indicates a need for further assistance for the school board or the county, as the case may be, after June 30, 1997, the recommendation shall include a report and plan describing the actions required to eliminate the need for further assistance for the school board or the county, including a proposal for legislative action to carry out the plan.

**(e) Reduction or termination of assistance payments; determination by Administrator of financial self-sufficiency**

In exercising the authority of subsection (a) the Administrator shall assure that the governmental or other entities receiving assistance hereunder utilize all reasonable, available means to achieve financial self-sufficiency to the end that assistance payments by the Administrator may be reduced or terminated at the earliest practical time.

(Aug. 4, 1955, ch. 543, ch. 9, §91, 69 Stat. 481; Pub. L. 90-190, §2, Dec. 14, 1967, 81 Stat. 576; Pub. L. 94-187, title VI, §601(1)-(6), Dec. 31, 1975, 89 Stat. 1077, 1078; Pub. L. 95-238, title II, §205(a), Feb. 25, 1978, 92 Stat. 60; Pub. L. 104-106, div. C, title XXXI, §3161(c), Feb. 10, 1996, 110 Stat. 627.)

**Editorial Notes**

REFERENCES IN TEXT

Act of September 30, 1950, referred to in subsec. (c), is act Sept. 30, 1950, ch. 1124, 64 Stat. 1100, as amended, popularly known as the Educational Agencies Financial Aid Act, which was classified generally to chapter 13 (§236 et seq.) of Title 20, Education, prior to repeal by Pub. L. 103-382, title III, §331(b), Oct. 20, 1994, 108 Stat. 3965. For complete classification of this Act to the Code, see Tables.

AMENDMENTS

1996—Subsec. (d). Pub. L. 104-106 substituted “; or not later than June 30, 1996, in the case of the Los Alamos School Board and the county of Los Alamos, New Mex-

ico” for “, and the Los Alamos School Board; and not less than six months prior to June 30, 1987, in the case of the county of Los Alamos, New Mexico” and inserted at end “If the recommendation under the preceding sentence regarding the Los Alamos School Board or the county of Los Alamos, New Mexico, indicates a need for further assistance for the school board or the county, as the case may be, after June 30, 1997, the recommendation shall include a report and plan describing the actions required to eliminate the need for further assistance for the school board or the county, including a proposal for legislative action to carry out the plan.”

1978—Subsec. (a). Pub. L. 95-238, §205(a)(1), inserted provisions for applicability to the Los Alamos School Board and the county of Los Alamos, New Mexico, and substituted provisions authorizing Administrator to make payments for provisions requiring Administrator to make payments.

Subsec. (d). Pub. L. 95-238, §205(a)(2), inserted provisions for applicability to the Los Alamos School Board and the county of Los Alamos, New Mexico, and substituted provision requiring presentation to the appropriate committees of the House and the Senate for provision requiring presentation to the Joint Committee on Atomic Energy.

1975—Subsec. (a). Pub. L. 94-187, §601(1), (5), substituted “Administrator” for “Commission” in three places and inserted at end of first sentence “; *Provided further*, That the Administrator is also authorized to make payments of just and reasonable sums to Anderson County and Roane County, Tennessee”.

Subsec. (a)(2). Pub. L. 94-187, §601(2), substituted “Energy Research and Development Administration” for “atomic energy”.

Subsec. (d). Pub. L. 94-187, §601(1), (3), (6), substituted “Administrator” for “Commission”, struck out “its” before “recommendations”, and inserted “; or not less than six months prior to June 30, 1986, in the case of Anderson County and Roane County, Tennessee” after “Richland School District” in parenthetical text.

Subsec. (e). Pub. L. 94-187, §601(1), (4), substituted “Administrator” for “Commission” in two places and struck out “itself” after “shall assure”.

1967—Subsec. (a). Pub. L. 90-190, §2(1), authorized the Commission, with respect to the cities of Oak Ridge, Tenn., and Richland, Wash., and the Richland School District, to continue to make assistance payments of just and reasonable sums after the expiration of the ten-year period following the date of transfer of any municipal installation, and added par. (5).

Subsec. (d). Pub. L. 90-190, §2(2), inserted “(or not less than six months prior to June 30, 1979, in the case of the Cities of Oak Ridge, Tennessee, and Richland, Washington, and the Richland School District),” after “subsection (a) of this section”, substituted “assistance” for “contribution”, and struck out requirement that if Commission proposes further contribution payments, it shall propose a definite schedule of such payments which will provide for an orderly and reasonably prompt withdrawal of Commission from participation in and contribution toward local government.

Subsec. (e). Pub. L. 90-190, §2(3), added subsec. (e).

**Statutory Notes and Related Subsidiaries**

TRANSFER OF FUNCTIONS

Energy Research and Development Administration terminated and functions vested by law in Administrator thereof transferred to Secretary of Energy (unless otherwise specifically provided) by sections 7151(a) and 7293 of this title.

CONVEYANCE TO LOS ALAMOS, NEW MEXICO

Pub. L. 111-383, div. C, title XXXI, §3120, Jan. 7, 2011, 124 Stat. 4514, provided that:

“(a) ENVIRONMENTAL RESTORATION.—If the Secretary of Energy determines under any authority previously established by law that a parcel of land described in subsection (c) requires environmental restoration or re-

<sup>1</sup> See References in Text note below.

mediation, the Secretary shall, to the maximum extent practicable, complete the environmental restoration or remediation of the parcel not later than September 30, 2022, and otherwise in compliance with such law.

“(b) CONVEYANCE OR TRANSFER.—If the Secretary determines under any authority previously established by law that environmental restoration or remediation cannot reasonably be expected to be completed with respect to a parcel of land described in subsection (c) by September 30, 2022, the Secretary shall not convey or transfer the parcel of land.

“(c) PARCELS OF LAND.—A parcel of land described in this subsection is a parcel of land under the jurisdiction or administrative control of the Secretary at or in the vicinity of Los Alamos National Laboratory that the Secretary has previously identified as suitable for conveyance or transfer in a report submitted to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] prior to the date of the enactment of this Act [Jan. 7, 2011].”

Pub. L. 105-119, title VI, § 632, Nov. 26, 1997, 111 Stat. 2523, as amended by Pub. L. 108-375, div. C, title XXXI, § 3148, Oct. 28, 2004, 118 Stat. 2177; Pub. L. 109-364, div. C, title XXXI, § 3119, Oct. 17, 2006, 120 Stat. 2509, provided that:

“(a) IN GENERAL.—The Secretary of Energy shall—

“(1) except as provided in paragraph (2), convey, without consideration, to the Incorporated County of Los Alamos, New Mexico (in this section referred to as the ‘County’), or to the designee of the County, fee title to the parcels of land that are allocated for conveyance to the County in the agreement under subsection (e);

“(2) notwithstanding paragraph (1) and the agreement under subsection (e), convey, without consideration, to the Board of Education of the Los Alamos Public Schools, New Mexico, within the County, fee title to the parcels of land identified by the Department of Energy as Parcel A-8 and Parcel A-15-1 that are currently located in Technical Area-21 of Los Alamos National Laboratory upon the entry of Los Alamos Public Schools and the County into an agreement for the use of the parcel of land identified as Parcel A-8; and

“(3) transfer to the Secretary of the Interior, in trust for the Pueblo of San Ildefonso (in this section referred to as the ‘Pueblo’), administrative jurisdiction over the parcels that are allocated for transfer to the Secretary of the Interior in such agreement.

“(b) PRELIMINARY IDENTIFICATION OF PARCELS OF LAND FOR CONVEYANCE OR TRANSFER.—(1) Not later than 90 days after the date of enactment of this Act [Nov. 26, 1997], the Secretary of Energy shall submit to the congressional defense committees a report identifying the parcels of land under the jurisdiction or administrative control of the Secretary at or in the vicinity of Los Alamos National Laboratory that are suitable for conveyance or transfer under this section.

“(2) A parcel is suitable for conveyance or transfer for purposes of paragraph (1) if the parcel—

“(A) is not required to meet the national security mission of the Department of Energy or will not be required for that purpose before the end of the 10-year period beginning on the date of enactment of this Act;

“(B) is likely to be conveyable or transferable, as the case may be, under this section not later than the end of such period; and

“(C) is suitable for use for a purpose specified in subsection (h).

“(c) REVIEW OF TITLE.—(1) Not later than one year after the date of enactment of this Act [Nov. 26, 1997], the Secretary shall submit to the congressional defense committees a report setting forth the results of a title search on each parcel of land identified as suitable for conveyance or transfer under subsection (b), including an analysis of any claims against or other impairments to the fee title to each such parcel.

“(2) In the period beginning on the date of the completion of the title search with respect to a parcel

under paragraph (1) and ending on the date of the submittal of the report under that paragraph, the Secretary shall take appropriate actions to resolve the claims against or other impairments, if any, to fee title that are identified with respect to the parcel in the title search.

“(d) ENVIRONMENTAL RESTORATION.—(1) Not later than 21 months after the date of enactment of this Act [Nov. 26, 1997], the Secretary shall—

“(A) identify the environmental restoration or remediation, if any, that is required with respect to each parcel of land identified under subsection (b) to which the United States has fee title;

“(B) carry out any review of the environmental impact of the conveyance or transfer of each such parcel that is required under the provisions of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.); and

“(C) submit to Congress a report setting forth the results of the activities under subparagraphs (A) and (B).

“(2) If the Secretary determines under paragraph (1) that a parcel described in paragraph (1)(A) requires environmental restoration or remediation, the Secretary shall, to the maximum extent practicable, complete the environmental restoration or remediation of the parcel not later than November 26, 2012.

“(e) AGREEMENT FOR ALLOCATION OF PARCELS.—As soon as practicable after completing the review of titles to parcels of land under subsection (c), but not later than 90 days after the submittal of the report under subsection (d)(1)(C), the County and the Pueblo shall submit to the Secretary an agreement between the County and the Pueblo which allocates between the County and the Pueblo the parcels identified for conveyance or transfer under subsection (b).

“(f) PLAN FOR CONVEYANCE AND TRANSFER.—(1) Not later than 90 days after the date of the submittal to the Secretary of Energy of the agreement under subsection (e), the Secretary shall submit to the congressional defense committees a plan for conveying or transferring parcels of land under this section in accordance with the allocation specified in the agreement.

“(2) The plan under paragraph (1) shall provide for the completion of the conveyance or transfer of parcels under this section not later than 9 months after the date of the submittal of the plan under that paragraph.

“(g) CONVEYANCE OR TRANSFER.—(1) Subject to paragraphs (2) and (3), the Secretary shall convey or transfer parcels of land in accordance with the allocation specified in the agreement submitted to the Secretary under subsection (e).

“(2) In the case of a parcel allocated under the agreement that is not available for conveyance or transfer in accordance with the requirement in subsection (f)(2) by reason of its requirement to meet the national security mission of the Department, the Secretary shall convey or transfer the parcel, as the case may be, when the parcel is no longer required for that purpose.

“(3)(A) In the case of a parcel allocated under the agreement that is not available for conveyance or transfer in accordance with such requirement by reason of requirements for environmental restoration or remediation, the Secretary shall convey or transfer the parcel, as the case may be, upon the completion of the environmental restoration or remediation that is required with respect to the parcel.

“(B) If the Secretary determines that environmental restoration or remediation cannot reasonably be expected to be completed with respect to a parcel by November 26, 2012, the Secretary shall not convey or transfer the parcel under this section.

“(h) USE OF CONVEYED OR TRANSFERRED LAND.—The parcels of land conveyed or transferred under this section shall be used for historic, cultural, or environmental preservation purposes, economic diversification purposes, or community self-sufficiency purposes.

“(i) TREATMENT OF CONVEYANCES AND TRANSFERS.—(1) The purpose of the conveyances and transfers under this section is to fulfill the obligations of the United

States with respect to Los Alamos National Laboratory, New Mexico, under sections 91 and 94 of the Atomic Energy Community Act of 1955 (42 U.S.C. 2391, 2394).

“(2) Upon the completion of the conveyance or transfer of the parcels of land available for conveyance or transfer under this section, the Secretary shall make no further payments with respect to Los Alamos National Laboratory under section 91 or section 94 of the Atomic Energy Community Act of 1955.

“(j) REPEAL OF SUPERSEDED PROVISION.—In the event of the enactment of the National Defense Authorization Act for Fiscal Year 1998 [Pub. L. 105-85] by reason of the approval of the President of the conference report to accompany the bill (H.R. 1119) of the 105th Congress, section 3165 of such Act [section 3165 of Pub. L. 105-85, see below] is repealed.”

Pub. L. 105-85, div. C, title XXXI, §3165, Nov. 18, 1997, 111 Stat. 2050, contained provisions similar to section 632 of Pub. L. 105-119, set out above, prior to repeal by Pub. L. 105-119, title VI, §632(j), Nov. 26, 1997, 111 Stat. 2525.

#### COMMUNITY ASSISTANCE PAYMENTS

Pub. L. 99-145, title XV, §1532, Nov. 8, 1985, 99 Stat. 773, as amended by Pub. L. 99-661, div. C, title I, §3133, Nov. 14, 1986, 100 Stat. 4063; Pub. L. 103-160, div. C, title XXXI, §3158, Nov. 30, 1993, 107 Stat. 1956, provided that, with certain limitations, the Secretary of Energy may obligate funds during fiscal year 1986 to provide a final financial settlement with Anderson County and Roane County, Tennessee, and the City of Oak Ridge, Tennessee, and terminate all annual assistance payments to those entities and to make advance payment of payments in lieu of property taxes for fiscal years 1986 through 1995, and that the Secretary shall report to Congress by Feb. 1, 1986, the Secretary's recommendations concerning financial assistance payments to local governmental entities.

#### NONAPPLICABILITY OF TITLE II OF PUB. L. 95-238 TO ANY AUTHORIZATION OR APPROPRIATION FOR MILITARY APPLICATION OF NUCLEAR ENERGY, ETC.; DEFINITIONS

Nonapplicability of provisions of title II of Pub. L. 95-238 with respect to any authorization or appropriation for any military application of nuclear energy, etc., see section 209 of Pub. L. 95-238, Feb. 25, 1978, 92 Stat. 76, set out as a note under section 5821 of this title.

#### § 2392. Reduction of payments

Any payment which becomes due under section 2391 of this title prior to the transfer of all municipal installations at the community may be reduced by such amount as the Administrator determines to be equitable based on the municipal services then being performed by the Energy Research and Development Administration, and the municipal services then being performed by such governmental entity.

(Aug. 4, 1955, ch. 543, ch. 9, §92, 69 Stat. 482; Pub. L. 94-187, title VI, §601(1), (8), Dec. 31, 1975, 89 Stat. 1077, 1078.)

#### Editorial Notes

##### AMENDMENTS

1975—Pub. L. 94-187 substituted “Administrator” for “Commission” where appearing first time and “Energy Research and Development Administration” for “Commission” where appearing second time.

#### Statutory Notes and Related Subsidiaries

##### TRANSFER OF FUNCTIONS

Energy Research and Development Administration terminated and functions vested by law in Adminis-

trator thereof transferred to Secretary of Energy (unless otherwise specifically provided) by sections 7151(a) and 7293 of this title.

#### § 2393. Payments in anticipation of services; withholding of payments

The payments made pursuant to section 2391 of this title to transferees of municipal installations are in anticipation that the respective recipients of those payments furnish, or have furnished, for the community, the school, hospital, or other municipal services in respect of which the payments are made. Any such payment may be withheld, in whole or in part, if the Administrator finds that the recipient is not furnishing such services for any part of the area so designated.

(Aug. 4, 1955, ch. 543, ch. 9, §93, 69 Stat. 482; Pub. L. 94-187, title VI, §601(1), Dec. 31, 1975, 89 Stat. 1077.)

#### Editorial Notes

##### AMENDMENTS

1975—Pub. L. 94-187 substituted “Administrator” for “Commission”.

#### Statutory Notes and Related Subsidiaries

##### TRANSFER OF FUNCTIONS

Energy Research and Development Administration terminated and functions vested by law in Administrator thereof transferred to Secretary of Energy (unless otherwise specifically provided) by sections 7151(a) and 7293 of this title.

#### § 2394. Contract to make payments

The Administrator is authorized, without regard to sections 1341, 1342, and 1349-1351 and subchapter II of chapter 15 of title 31, to enter into a contract with any governmental or other entity to which payments are authorized to be made pursuant to section 2391 of this title, obligating the Administrator to make to such entity the payments directed or authorized to be made by section 2391 of this title: *Provided, however*, That the term of such contracts, in the case of the cities of Oak Ridge, Tennessee, and Richland, Washington, and the Richland School District, shall not extend beyond June 30, 1979; and in the case of the Los Alamos School Board shall not extend beyond June 30, 1997; and in the case of the county of Los Alamos, New Mexico, shall not extend beyond June 30, 1997. The authority to enter into a contract under the preceding sentence with the Los Alamos School Board and with the county of Los Alamos, New Mexico, shall be effective with respect to a period before July 1, 1997, only to the extent or in such amounts as are provided in appropriation Acts.

(Aug. 4, 1955, ch. 543, ch. 9, §94, 69 Stat. 482; Pub. L. 90-190, §3, Dec. 14, 1967, 81 Stat. 576; Pub. L. 94-187, title VI, §601(1), (9), Dec. 31, 1975, 89 Stat. 1077, 1078; Pub. L. 95-238, title II, §205(b), Feb. 25, 1978, 92 Stat. 61; Pub. L. 99-661, div. C, title I, §3138(a), (b)(1), Nov. 14, 1986, 100 Stat. 4066; Pub. L. 104-106, div. C, title XXXI, §3161(d), Feb. 10, 1996, 110 Stat. 627.)