

**§ 2214. Transfer of funds: procedure and limitations**

(a) PROCEDURE FOR TRANSFER OF FUNDS.—Whenever authority is provided in an appropriation Act to transfer amounts in working capital funds or to transfer amounts provided in appropriation Acts for military functions of the Department of Defense (other than military construction) between such funds or appropriations (or any subdivision thereof), amounts transferred under such authority shall be merged with and be available for the same purposes and for the same time period as the fund or appropriations to which transferred.

(b) LIMITATIONS ON PROGRAMS FOR WHICH AUTHORITY MAY BE USED.—Such authority to transfer amounts—

(1) may not be used except to provide funds for a higher priority item, based on unforeseen military requirements, than the items for which the funds were originally appropriated; and

(2) may not be used if the item to which the funds would be transferred is an item for which Congress has denied funds.

(c) NOTICE TO CONGRESS.—The Secretary of Defense shall promptly notify the Congress of each transfer made under such authority to transfer amounts.

(d) LIMITATIONS ON REQUESTS TO CONGRESS FOR REPROGRAMMING.—Neither the Secretary of Defense nor the Secretary of a military department may prepare or present to the Congress, or to any committee of either House of the Congress, a request with respect to a reprogramming of funds—

(1) unless the funds to be transferred are to be used for a higher priority item, based on unforeseen military requirements, than the item for which the funds were originally appropriated; or

(2) if the request would be for authority to reprogram amounts to an item for which the Congress has denied funds.

(Added Pub. L. 101-510, div. A, title XIV, § 1482(c)(1), Nov. 5, 1990, 104 Stat. 1709.)

**Statutory Notes and Related Subsidiaries**

**EFFECTIVE DATE**

Section effective Oct. 1, 1991, see section 1482(d) of Pub. L. 101-510, set out as an Effective Date of 1990 Amendment note under section 119 of this title.

**NOTIFICATION TO CONGRESS OF REPROGRAMMING INVOLVING MILITARY CONSTRUCTION FUNDS**

Pub. L. 118-159, div. B, title XXVIII, § 2810, Dec. 23, 2024, 138 Stat. 2252, provided that: “The Secretary of Defense shall notify the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] of any reprogramming of funds made available for military construction not later than 14 days after the date of such reprogramming.”

**§ 2215. Transfer of funds to other departments and agencies: limitation**

Funds available for military functions of the Department of Defense may not be made available to any other department or agency of the Federal Government pursuant to a provision of

law enacted after November 29, 1989, unless, not less than 30 days before such funds are made available to such other department or agency, the Secretary of Defense submits to the congressional defense committees a certification that making those funds available to such other department or agency is in the national security interest of the United States.

(Added Pub. L. 103-160, div. A, title XI, § 1106(a)(1), Nov. 30, 1993, 107 Stat. 1750; amended Pub. L. 104-106, div. A, title XV, § 1502(a)(14), Feb. 10, 1996, 110 Stat. 503; Pub. L. 106-65, div. A, title X, § 1067(1), Oct. 5, 1999, 113 Stat. 774; Pub. L. 108-375, div. A, title X, § 1084(b)(1), Oct. 28, 2004, 118 Stat. 2060.)

**Editorial Notes**

**PRIOR PROVISIONS**

A prior section 2215, added Pub. L. 99-661, div. A, title XIII, § 1307(a)(1), Nov. 14, 1986, 100 Stat. 3980, related to reports on unobligated balances, prior to repeal by Pub. L. 101-510, div. A, title XIII, § 1301(7), Nov. 5, 1990, 104 Stat. 1668.

Provisions similar to those in this section were contained in Pub. L. 101-189, div. A, title XVI, § 1604, Nov. 29, 1989, 103 Stat. 1598, which was set out as a note under section 1531 of Title 31, Money and Finance, prior to repeal by Pub. L. 103-160, § 1106(b).

**AMENDMENTS**

2004—Pub. L. 108-375 struck out subsec. (a) designation and heading before “Funds available”, substituted “congressional defense committees” for “congressional committees specified in subsection (b)”, and struck out heading and text of subsec. (b). Text of subsec. (b) read as follows: “The committees referred to in subsection (a) are—

“(1) the Committee on Armed Services and the Committee on Appropriations of the Senate; and

“(2) the Committee on Armed Services and the Committee on Appropriations of the House of Representatives.”

1999—Subsec. (b)(2). Pub. L. 106-65 substituted “Committee on Armed Services” for “Committee on National Security”.

1996—Pub. L. 104-106 designated existing provisions as subsec. (a), inserted heading, substituted “to the congressional committees specified in subsection (b)” for “to the Committees on Armed Services and the Committees on Appropriations of the Senate and House of Representatives”, and added subsec. (b).

**[§ 2216. Renumbered § 3136]**

**Editorial Notes**

**PRIOR PROVISIONS**

A prior section 2216, added Pub. L. 104-106, div. A, title III, § 371(a)(1), Feb. 10, 1996, 110 Stat. 277, was renumbered section 2216a of this title and subsequently repealed.

Another prior section 2216, added Pub. L. 99-661, div. A, title XIII, § 1307(a)(1), Nov. 14, 1986, 100 Stat. 3980, related to annual reports on budgeting for inflation, prior to repeal by Pub. L. 101-510, div. A, title XIII, § 1301(8), Nov. 5, 1990, 104 Stat. 1668.

**§ 2216a. Rapidly meeting urgent needs: Joint Urgent Operational Needs Fund**

(a) ESTABLISHMENT.—There is established in the Treasury an account to be known as the “Joint Urgent Operational Needs Fund” (in this section referred to as the “Fund”).

(b) ELEMENTS.—The Fund shall consist of the following:

- (1) Amounts appropriated to the Fund.
- (2) Amounts transferred to the Fund.
- (3) Any other amounts made available to the Fund by law.

(c) USE OF FUNDS.—(1) Amounts in the Fund shall be available to the Secretary of Defense for capabilities that are determined by the Secretary, pursuant to the review process required by Department of Defense Instruction 5000.81 (or any successor instruction), dated December 31, 2019, and titled “Urgent Capability Acquisition”, to be suitable for rapid fielding in response to urgent operational needs.

(2) The Secretary shall establish a merit-based process for identifying equipment, supplies, services, training, and facilities suitable for funding through the Fund.

(3) Nothing in this section shall be interpreted to require or enable any official of the Department of Defense to provide funding under this section pursuant to a congressional earmark, as defined in clause 9 of Rule XXI of the Rules of the House of Representatives, or a congressionally directed spending item, as defined in paragraph 5 of Rule XLIV of the Standing Rules of the Senate.

(d) TRANSFER AUTHORITY.—(1) Amounts in the Fund may be transferred by the Secretary of Defense from the Fund to any of the following accounts of the Department of Defense to accomplish the purpose stated in subsection (c):

- (A) Operation and maintenance accounts.
- (B) Procurement accounts.
- (C) Research, development, test, and evaluation accounts.

(2) Upon determination by the Secretary that all or part of the amounts transferred from the Fund under paragraph (1) are not necessary for the purpose for which transferred, such amounts may be transferred back to the Fund.

(3) The transfer of an amount to an account under the authority in paragraph (1) shall be deemed to increase the amount authorized for such account by an amount equal to the amount so transferred.

(4) The transfer authority provided by paragraphs (1) and (2) is in addition to any other transfer authority available to the Department of Defense by law.

(e) SUNSET.—The authority to make expenditures or transfers from the Fund shall expire on September 30, 2018.

(Added Pub. L. 112–81, div. A, title VIII, § 846(a)(1), Dec. 31, 2011, 125 Stat. 1516; amended Pub. L. 112–239, div. A, title X, § 1076(e)(2), Jan. 2, 2013, 126 Stat. 1951; Pub. L. 113–291, div. A, title VIII, § 860, Dec. 19, 2014, 128 Stat. 3461; Pub. L. 117–263, div. A, title VIII, § 804(d)(1), Dec. 23, 2022, 136 Stat. 2701.)

#### Editorial Notes

##### PRIOR PROVISIONS

A prior section 2216a, added Pub. L. 104–106, div. A, title III, § 371(a)(1), Feb. 10, 1996, 110 Stat. 277, § 2216; renumbered § 2216a and amended Pub. L. 104–201, div. A, title III, §§ 363(c), 364, title X, § 1074(a)(10), Sept. 23, 1996, 110 Stat. 2493, 2494, 2659, related to Defense Business Operations Fund, prior to repeal by Pub. L. 105–261, div. A, title X, § 1008(b), Oct. 17, 1998, 112 Stat. 2117.

#### AMENDMENTS

2022—Subsec. (c)(1). Pub. L. 117–263 substituted “Department of Defense Instruction 5000.81 (or any successor instruction), dated December 31, 2019, and titled ‘Urgent Capability Acquisition’” for “section 804(b) of the Ike Skelton National Defense Authorization Act for Fiscal Year 2011 (10 U.S.C. 2302 note)”.

2014—Subsec. (e). Pub. L. 113–291 substituted “September 30, 2018” for “September 30, 2015”.

2013—Subsec. (e). Pub. L. 112–239 substituted “on September 30, 2015.” for “on the last day of the third fiscal year that begins after the date of the enactment of the National Defense Authorization Act for Fiscal Year 2012.”

#### Statutory Notes and Related Subsidiaries

##### LIMITATION ON COMMENCEMENT OF EXPENDITURES FROM FUND

Pub. L. 112–81, div. A, title VIII, § 846(b), Dec. 31, 2011, 125 Stat. 1517, provided that: “No expenditure may be made from the Joint Urgent Operational Needs Fund established by section 2216a of title 10, United States Code (as added by subsection (a)), until the Secretary of Defense certifies to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] that the Secretary has developed and implemented an expedited review process in compliance with the requirements of section 804 of the Ike Skelton National Defense Authorization Act for Fiscal Year 2011 (Public Law 111–383; 124 Stat. 4256; 10 U.S.C. 2302 note).”

#### [§ 2217. Renumbered § 3135]

#### § 2218. National Defense Sealift Fund

(a) ESTABLISHMENT.—There is established in the Treasury of the United States a fund to be known as the “National Defense Sealift Fund”.

(b) ADMINISTRATION OF FUND.—The Secretary of Defense shall administer the Fund consistent with the provisions of this section.

(c) FUND PURPOSES.—(1) Funds in the National Defense Sealift Fund shall be available for obligation and expenditure only for the following purposes:

(A) Construction (including design of vessels), purchase, alteration, and conversion of Department of Defense sealift vessels.

(B) Operation, maintenance, and lease or charter of Department of Defense vessels for national defense purposes.

(C) Installation and maintenance of defense features for national defense purposes on privately owned and operated vessels that are constructed in the United States and documented under the laws of the United States.

(D) Expenses for maintaining the National Defense Reserve Fleet under section 11 of the Merchant Ship Sales Act of 1946 (50 U.S.C. 4405),<sup>1</sup> and for the costs of acquisition of vessels for, and alteration and conversion of vessels in (or to be placed in), the fleet, but only for vessels built in United States shipyards.

(2) Funds in the National Defense Sealift Fund may be obligated or expended only in amounts authorized by law.

(3) Funds obligated and expended for a purpose set forth in subparagraph (B) of paragraph (1) may be derived only from funds deposited in the National Defense Sealift Fund pursuant to subsection (d)(1).

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