

fense 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.)

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.

§ 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.)

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 con-

gressional 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. Defense Modernization Account

(a) ESTABLISHMENT.—There is established in the Treasury an account to be known as the “Defense Modernization Account”.

(b) FUNDS AVAILABLE FOR ACCOUNT.—The Defense Modernization Account shall consist of the following:

(1) Amounts appropriated to the Defense Modernization Account for the costs of commencing projects described in subsection (d)(1), and amounts reimbursed to the Defense Modernization Account under subsection (c)(1)(B)(iii) out of savings derived from such projects.

(2) Amounts transferred to the Defense Modernization Account under subsection (c).

(c) TRANSFERS TO ACCOUNT.—(1)(A) Upon a determination by the Secretary of a military department or the Secretary of Defense with respect to Defense-wide appropriations accounts of the availability and source of funds described in subparagraph (B), that Secretary may transfer to the Defense Modernization Account during any fiscal year any amount of funds available to the Secretary described in that subparagraph. Such funds may be transferred to that account only after the Secretary concerned notifies the congressional defense committees in writing of the amount and source of the proposed transfer.

(B) This subsection applies to the following funds available to the Secretary concerned:

(i) Unexpired funds in appropriations accounts that are available for procurement and that, as a result of economies, efficiencies, and other savings achieved in carrying out a particular procurement, are excess to the requirements of that procurement.

(ii) Unexpired funds that are available during the final 30 days of a fiscal year for support of installations and facilities and that, as a result of economies, efficiencies, and other savings, are excess to the requirements for support of installations and facilities.

(iii) Unexpired funds in appropriations accounts that are available for procurement or operation and maintenance of a system, if and to the extent that savings are achieved for such accounts through reductions in life cycle costs of such system that result from one or more projects undertaken with respect to such systems with funds made available from the Defense Modernization Account under subsection (b)(1).

(C) Any transfer under subparagraph (A) shall be made under regulations prescribed by the Secretary of Defense.

(2) Funds referred to in paragraph (1), other than funds referred to in subparagraph (B)(iii) of such paragraph, may not be transferred to the Defense Modernization Account if—

(A) the funds are necessary for programs, projects, and activities that, as determined by the Secretary, have a higher priority than the purposes for which the funds would be available if transferred to that account; or