

1586, 1587, 1611; Pub. L. 109–364, div. A, title X, § 1071(a)(16), Oct. 17, 2006, 120 Stat. 2399; Pub. L. 113–66, div. A, title X, § 1084(a)(2), Dec. 26, 2013, 127 Stat. 871.)

CODIFICATION

Another section 2216 was renumbered section 2216a of this title and subsequently repealed.

PRIOR PROVISIONS

A 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.

AMENDMENTS

2013—Subsecs. (i) to (k). Pub. L. 113–66 redesignated subsecs. (j) and (k) as (i) and (j), respectively, and struck out former subsec. (i) which related to an annual report submitted by the Secretary of Defense to the congressional defense committees and the Committee on Governmental Affairs of the Senate and the Committee on Government Reform and Oversight of the House of Representatives.

2006—Subsec. (b)(1). Pub. L. 109–364 substituted “subsection (c)(1)(B)(iii)” for “subsections (c)(1)(B)(iii)”.

2003—Subsec. (b). Pub. L. 108–136, § 1008(a)(3), added subsec. (b). Former subsec. (b) redesignated (c).

Subsec. (c). Pub. L. 108–136, § 1008(a)(1), (2), redesignated subsec. (b) as (c) and struck out heading and text of former subsec. (c). Text read as follows: “Funds transferred to the Defense Modernization Account from funds appropriated for a military department, Defense Agency, or other element of the Department of Defense shall be available in accordance with subsections (f) and (g) only for transfer to funds available for that military department, Defense Agency, or other element.”

Subsec. (c)(1)(B)(iii). Pub. L. 108–136, § 1008(c)(1), added cl. (iii).

Subsec. (c)(2). Pub. L. 108–136, § 1008(c)(2), inserted “, other than funds referred to in subparagraph (B)(iii) of such paragraph,” after “Funds referred to in paragraph (1)”.

Subsec. (d). Pub. L. 108–136, § 1008(b), substituted “in the Defense Modernization Account” for “available from the Defense Modernization Account pursuant to subsection (f) or (g)” in introductory provisions, added par. (1), and redesignated former pars. (1) and (2) as (2) and (3), respectively.

Subsec. (h). Pub. L. 108–136, § 1008(d), designated existing provisions as par. (1) and added par. (2).

Subsec. (i). Pub. L. 108–136, § 1008(e)(1), substituted “Annual Report” for “Quarterly Reports” in heading.

Subsec. (i)(1). Pub. L. 108–136, § 1008(e)(1), (2), substituted “fiscal year” for “calendar quarter” in introductory provisions and “fiscal year” for “quarter” in subpars. (A) to (C).

Subsec. (j)(3). Pub. L. 108–136, § 1043(b)(8), struck out par. (3) which read as follows: “The term ‘congressional defense committees’ means—

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

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

Subsec. (k). Pub. L. 108–136, § 1008(f)(1), added subsec. (k).

1999—Subsec. (j)(3)(B). Pub. L. 106–65 substituted “Committee on Armed Services” for “Committee on National Security”.

CHANGE OF NAME

Committee on Governmental Affairs of Senate changed to Committee on Homeland Security and Governmental Affairs of Senate, effective Jan. 4, 2005, by Senate Resolution No. 445, One Hundred Eighth Congress, Oct. 9, 2004.

Committee on Government Reform and Oversight of House of Representatives changed to Committee on Government Reform of House of Representatives by House Resolution No. 5, One Hundred Sixth Congress, Jan. 6, 1999. Committee on Government Reform of House of Representatives changed to Committee on Oversight and Government Reform of House of Representatives by House Resolution No. 6, One Hundred Tenth Congress, Jan. 5, 2007.

EFFECTIVE DATE

Pub. L. 104–106, div. A, title IX, § 912(b), Feb. 10, 1996, 110 Stat. 410, provided that: “Section 2216 of title 10, United States Code (as added by subsection (a)), shall apply only to funds appropriated for fiscal years after fiscal year 1995.”

EXPIRATION OF AUTHORITY AND ACCOUNT

Pub. L. 104–106, div. A, title IX, § 912(c), Feb. 10, 1996, 110 Stat. 410, as amended by Pub. L. 107–314, div. A, title VIII, § 825(a)(1), Dec. 2, 2002, 116 Stat. 2615, provided that authority under section 2216(b) of this title to transfer funds into Defense Modernization Account terminated at close of Sept. 30, 2002, and the Account was to be closed three years later, prior to repeal by Pub. L. 108–136, div. A, title X, § 1008(f)(2), Nov. 24, 2003, 117 Stat. 1587.

GAO REVIEWS

Pub. L. 104–106, div. A, title IX, § 912(d), Feb. 10, 1996, 110 Stat. 410, required Comptroller General of the United States to conduct two reviews of the administration of the Defense Modernization Account, prior to repeal by Pub. L. 107–314, div. A, title VIII, § 825(a)(2), Dec. 2, 2002, 116 Stat. 2615.

§ 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 section 804(b) of the Ike Skelton National Defense Authorization Act for Fiscal Year 2011 (10 U.S.C. 2302 note), 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.)

REFERENCES IN TEXT

Section 804(b) of the Ike Skelton National Defense Authorization Act for Fiscal Year 2011, referred to in subsec. (c)(1), is section 804(b) of Pub. L. 111–383, which is set out as a note under section 2302 of this title.

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

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.”

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. Comparable budgeting for common procurement weapon systems

(a) MATTERS TO BE INCLUDED IN ANNUAL DEFENSE BUDGETS.—In preparing the defense budget for any fiscal year, the Secretary of Defense shall—

(1) specifically identify each common procurement weapon system included in the budget;

(2) take all feasible steps to minimize variations in procurement unit costs for any such system as shown in the budget requests of the different armed forces requesting procurement funds for the system; and

(3) identify and justify in the budget all such variations in procurement unit costs for common procurement weapon systems.

(b) COMPTROLLER.—The Secretary shall carry out this section through the Under Secretary of Defense (Comptroller).

(c) DEFINITIONS.—In this section:

(1) The term “defense budget” means the budget of the Department of Defense included in the President’s budget submitted to Congress under section 1105 of title 31 for a fiscal year.

(2) The term “common procurement weapon system” means a weapon system for which two or more of the Army, Navy, Air Force, and Marine Corps request procurement funds in a defense budget.

(Added Pub. L. 100–370, §1(d)(3)(A), July 19, 1988, 102 Stat. 843; amended Pub. L. 104–106, div. A, title XV, §1503(a)(20), Feb. 10, 1996, 110 Stat. 512.)

HISTORICAL AND REVISION NOTES

Section is based on Pub. L. 99–500, §101(c) [title X, §955], Oct. 18, 1986, 100 Stat. 1783–82, 1783–173, and Pub. L. 99–591, §101(c) [title X, §955], Oct. 30, 1986, 100 Stat. 3341–82, 3341–173; Pub. L. 99–661, div. A, title IX, formerly title IV, §955, Nov. 14, 1986, 100 Stat. 3953, renumbered title IX, Pub. L. 100–26, §3(5), Apr. 21, 1987, 101 Stat. 273.

AMENDMENTS

1996—Subsec. (b). Pub. L. 104–106 substituted “Under Secretary of Defense (Comptroller)” for “Comptroller of the Department of Defense”.

§ 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) Research and development relating to national defense sealift.

(E) Expenses for maintaining the National Defense Reserve Fleet under section 11 of the Merchant Ship Sales Act of 1946 (50 U.S.C. App. 1744),¹ and for the costs of acquisition of

¹ See References in Text note below.