

tions would not be necessary for the liquidation of obligations or for making authorized adjustments to such appropriations for obligations incurred during the period of availability of such appropriations, unobligated balances of such appropriations could be transferred into the appropriation “Foreign Currency Fluctuations, Construction, Defense” to be merged with and to be available for the same time period and for the same purposes as the appropriation to which transferred, was from the Military Construction Appropriations Act, 2005 and was repeated in provisions of subsequent appropriations acts which are not set out in the Code. Similar provisions were also contained in the following prior appropriations acts:

Pub. L. 107-249, §118, Oct. 23, 2002, 116 Stat. 1584.
 Pub. L. 107-64, §118, Nov. 5, 2001, 115 Stat. 480.
 Pub. L. 106-246, div. A, §118, July 13, 2000, 114 Stat. 516.
 Pub. L. 106-52, §118, Aug. 17, 1999, 113 Stat. 264.
 Pub. L. 105-237, §118, Sept. 20, 1998, 112 Stat. 1559.
 Pub. L. 105-45, §118, Sept. 30, 1997, 111 Stat. 1147.
 Pub. L. 104-196, §118, Sept. 16, 1996, 110 Stat. 2392.
 Pub. L. 104-32, §118, Oct. 3, 1995, 109 Stat. 289.
 Pub. L. 103-307, §119, Aug. 23, 1994, 108 Stat. 1665.
 Pub. L. 103-110, §120, Oct. 21, 1993, 107 Stat. 1043.
 Pub. L. 102-380, §121, Oct. 5, 1992, 106 Stat. 1372.
 Pub. L. 102-136, §122, Oct. 25, 1991, 105 Stat. 643.

Pub. L. 99-500, §101(k) [title I, §121], Oct. 18, 1986, 100 Stat. 1783-287, 1783-293, and Pub. L. 99-591, §101(k) [title I, §121], Oct. 30, 1986, 100 Stat. 3341-287, 3341-293, as amended by Pub. L. 102-136, §122, Oct. 25, 1991, 105 Stat. 643, provided that: “For Transfer by the Secretary of Defense to and from appropriations and funds not merged pursuant to subsection 1552(a)(1) of title 31 of the United States Code and available for obligation or expenditure during fiscal year 1987 or thereafter, for military construction or expenses of family housing for the military departments and Defense agencies, in order to maintain the budgeted level of operations for such appropriations and thereby eliminate substantial gains and losses to such appropriations caused by fluctuations in foreign currency exchange rates that vary substantially from those used in preparing budget submissions, an appropriation, to remain available until expended: *Provided*, That funds transferred from this appropriation shall be merged with and be available for the same purpose, and for the same time period, as the appropriation or fund to which transferred, and funds transferred to this appropriation shall be merged with, and available for the purpose of this appropriation until expended: *Provided further*, That transfers may be made from time to time from this appropriation to the extent the Secretary of Defense determines it may be necessary to do so to reflect downward fluctuations in the currency exchange rates from those used in preparing the budget submissions for such appropriations, but transfers shall be made from such appropriations to this appropriation to reflect upward fluctuations in currency exchange rates to prevent substantial net gains in such appropriations: *Provided further*, That authorizations or limitations now or hereafter contained within appropriations or other provisions of law limiting the amounts that may be obligated or expended for military construction and family housing expenses are hereby increased to the extent necessary to reflect downward fluctuations in foreign currency exchange rates from those used in preparing the applicable budget submission: *Provided further*, That for the purposes of the appropriation ‘Foreign Currency Fluctuations, Construction, Defense’ the foreign currency rates used in preparing budget submissions shall be the foreign currency exchange rates as adjusted or modified, as reflected in applicable Committee reports on the Acts making appropriations for military construction for the Department of Defense: *Provided further*, That the Secretary of Defense shall provide an annual report to the Congress on all transfers made to or made from this appropriation: *Provided further*, That contracts or other obligations entered into payable in foreign currencies

may be recorded as obligations based on the currency exchange rates used in preparing budget submissions and adjustments to reflect fluctuations in such rates may be recorded as disbursements are made: *Provided further*, That, at the discretion of the Secretary of Defense, any savings generated in the military construction and family housing programs may be transferred to this appropriation.”

§ 2861. Military construction projects in connection with industrial facility investment program

(a) **AUTHORITY.**—The Secretary of Defense may carry out a military construction project, not previously authorized, for the purpose of carrying out activities under section 2474(a)(2) of this title, using funds appropriated or otherwise made available for that purpose in military construction accounts.

(b) **CREDITING OF FUNDS TO CAPITAL BUDGET.**—Funds appropriated or otherwise made available in a fiscal year for the purpose of carrying out a military construction project with respect to a covered depot (as defined in subsection (e) of section 2476 of this title) may be credited to the amount required by subsection (a) of such section to be invested in the capital budgets of the covered depots in that fiscal year.

(c) **NOTICE AND WAIT REQUIREMENT.**—When a decision is made to carry out a project under subsection (a), the Secretary of Defense shall notify the appropriate committees of Congress of that decision and the savings estimated to be realized from the project. The project may then be carried out only after the end of the 14-day period beginning on the date the notification is received by such committees in an electronic medium pursuant to section 480 of this title.

(Added Pub. L. 109-364, div. B, title XXVIII, §2809(a), Oct. 17, 2006, 120 Stat. 2470; amended Pub. L. 115-91, div. A, title X, §1051(a)(23), div. B, title XXVIII, §2801(c)(4), Dec. 12, 2017, 131 Stat. 1562, 1844.)

PRIOR PROVISIONS

A prior section 2861, added Pub. L. 97-214, §2(a), July 12, 1982, 96 Stat. 167; amended Pub. L. 100-26, §7(f)(1), (j)(9), Apr. 21, 1987, 101 Stat. 281, 283; Pub. L. 104-106, div. B, title XXVIII, §2811(b), Feb. 10, 1996, 110 Stat. 552; Pub. L. 104-201, div. B, title XXVIII, §2802(d)(1), Sept. 23, 1996, 110 Stat. 2787, required the Secretary of Defense to submit an annual report to the appropriate committees of Congress with respect to military construction activities and military family housing activities, prior to repeal by Pub. L. 107-107, div. B, title XXVIII, §2803(a), Dec. 28, 2001, 115 Stat. 1305.

AMENDMENTS

2017—Subsec. (c). Pub. L. 115-91, §2801(c)(4), struck out “in writing” after “shall notify” and “or, if earlier, the end of the 14-day period beginning on the date on which a copy of the notification is provided” after “received by such committees” and substituted “14-day period” for “21-day period”.

Subsec. (d). Pub. L. 115-91, §1051(a)(23), struck out subsec. (d). Text read as follows: “Not later than December 31 of each year, the Secretary shall submit to Congress a report describing actions taken under this section and the savings realized from such actions during the fiscal year ending in the year in which the report is submitted.”

§ 2862. Turn-key selection procedures

(a) **AUTHORITY TO USE FOR CERTAIN PURPOSES.**—The Secretary concerned may use one-