§ 2201. Apportionment of funds: authority for exemption; excepted expenses

(a) Exemption From Apportionment Requirement.— If the President determines such action to be necessary in the interest of national defense, the President may exempt from the provisions of section 1512 of title 31 appropriations, funds, and contract authorizations available for military functions of the Department of Defense.

(b) Airborne Alerts.— Upon a determination by the President that such action is necessary, the Secretary of Defense may provide for the cost of an airborne alert as an excepted expense under section 6301 (a) and (b)(1)–(3) of title 41.

(c) Members on Active Duty.— Upon a determination by the President that it is necessary to increase (subject to limits imposed by law) the number of members of the armed forces on active duty beyond the number for which funds are provided in appropriation Acts for the Department of Defense, the Secretary of Defense may provide for the cost of such additional members as an excepted expense under section 6301 (a) and (b)(1)–(3) of title 41.

(d) Notification to Congress.— The Secretary of Defense shall immediately notify Congress of the use of any authority under this section.


Historical and Revision Notes


In two instances, the source law to be codified by the bill includes provisions that on their face require that the Department of Defense notify Congress of certain actions. These notification requirements were terminated by section 602 of the Goldwater-Nichols Department of Defense Reorganization Act of 1986 (Public Law 99–433), which terminated all recurring reporting requirements applicable to the Department of Defense except for those requirements that were specifically exempted in that section. The source law sections are sections 8009 (c) and 8005 (j) (proviso) of the FY86 defense appropriations Act (Public Law 99–190), enacted December 19, 1985, which would be codified as section 2201 of title 10 (by section 1(d) of the bill) and section 7313 (a) of title 10 (by section 1(n) of the bill). In codifying the authorities provided the Department of Defense by these two provisions of law, the committee believes that it is appropriate to reinstate the congressional notification requirements that go with those authorities. These sections were recurring annual appropriation provisions for many years and were made permanent only months before the enactment of the 1986 Reorganization Act. It is the committee’s belief that the failure to exempt these provisions from the general reports termination provision was inadvertent and notes that the notification provisions had in fact previously applied to the Department of Defense for many years. The action of the committee restores the status quo as it existed before the Reorganization Act.

Prior Provisions


Amendments

2011—Subsec. (b). Pub. L. 111–350, § 5(b)(4)(A), substituted “section 6301 (a) and (b)(1)–(3) of title 41” for “section 3732(a) of the Revised Statutes (41 U.S.C. 11 (a))”.

Subsec. (c). Pub. L. 111–350, § 5(b)(4)(B), substituted “section 6301 (a) and (b)(1)–(3) of title 41” for “section 3732(a) of the Revised Statutes (41 U.S.C. 11 (a))”.

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1999—Subsec. (d). Pub. L. 106–65 substituted “Defense” for “Defense—”, struck out par. (1) designation, substituted “this section.” for “this section; and”, and struck out par. (2) which read as follows: “shall submit monthly reports to Congress on the estimated obligations incurred pursuant to subsections (b) and (c).”