

partment of Defense, shall develop a strategic management plan for the Department of Defense.

“(2) MATTERS COVERED.—Such plan shall include, at a minimum, detailed descriptions of—

“(A) performance goals and measures for improving and evaluating the overall efficiency and effectiveness of the business operations of the Department of Defense and achieving an integrated management system for business support areas within the Department of Defense;

“(B) key initiatives to be undertaken by the Department of Defense to achieve the performance goals under subparagraph (A), together with related resource needs;

“(C) procedures to monitor the progress of the Department of Defense in meeting performance goals and measures under subparagraph (A);

“(D) procedures to review and approve plans and budgets for changes in business operations, including any proposed changes to policies, procedures, processes, and systems, to ensure the compatibility of such plans and budgets with the strategic management plan of the Department of Defense; and

“(E) procedures to oversee the development of, and review and approve, all budget requests for defense business systems.

“(e) REPORT.—Not later than 180 days after the date of the enactment of this Act [Jan. 28, 2008], the Secretary of Defense shall provide to the Committees on Armed Services of the Senate and the House of Representatives a report on the implementation of this section and a copy of the strategic management plan required by subsection (d).”

#### § 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.

(Added Pub. L. 100–370, §1(d)(1)(A), July 19, 1988, 102 Stat. 841; amended Pub. L. 106–65, div. A, title X, §1032(a)(1), Oct. 5, 1999, 113 Stat. 751; Pub. L. 111–350, §5(b)(4), Jan. 4, 2011, 124 Stat. 3842.)

#### HISTORICAL AND REVISION NOTES

Section is based on Pub. L. 99–190, §101(b) [title VIII, §8009], Dec. 19, 1985, 99 Stat. 1185, 1204.

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

A prior section 2201, act Aug. 10, 1956, ch. 1041, 70A Stat. 119, prescribed the general functions of the Secretary of Defense, prior to repeal by Pub. L. 85–599, §3(c), Aug. 6, 1958, 72 Stat. 516. See section 113 of this title.

#### 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))”.

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).”

#### § 2202. Regulations on procurement, production, warehousing, and supply distribution functions

The Secretary of Defense shall prescribe regulations governing the performance within the Department of Defense of the procurement, production, warehousing, and supply distribution functions, and related functions, of the Department of Defense.

(Aug. 10, 1956, ch. 1041, 70A Stat. 120; Pub. L. 100–180, div. A, title XII, §1202, Dec. 4, 1987, 101 Stat. 1153; Pub. L. 103–355, title III, §3061(a), Oct. 13, 1994, 108 Stat. 3336; Pub. L. 116–283, div. A, title XVIII, §1807(b)(2), Jan. 1, 2021, 134 Stat. 4157.)

#### AMENDMENT OF SECTION

*Pub. L. 116–283, div. A, title XVIII, §§1801(d), 1807(b)(2), Jan. 1, 2021, 134 Stat. 4151, 4157, provided that, effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, this section is amended by striking “procurement,” in section catchline and text. See 2021 Amendment note below.*