

§ 125. Functions, powers, and duties: transfer, reassignment, consolidation, or abolition

(a) Subject to section 2 of the National Security Act of 1947 (50 U.S.C. 401), the Secretary of Defense shall take appropriate action (including the transfer, reassignment, consolidation, or abolition of any function, power, or duty) to provide more effective, efficient, and economical administration and operation, and to eliminate duplication in the Department of Defense. However, except as provided by subsections (b) and (c), a function, power, or duty vested in the Department of Defense, or an officer, official, or agency thereof, by law may not be substantially transferred, reassigned, consolidated, or abolished [unless the Secretary reports the details of the proposed transfer, reassignment, consolidation, or abolition to the Committees on Armed Services of the Senate and House of Representatives. The transfer, reassignment, consolidation, or abolition concerned takes effect on the first day after the expiration of the first 30 days that Congress is in continuous session after the Secretary so reports, unless either of those Committees, within that period, reports a resolution recommending that the proposed transfer, reassignment, consolidation, or abolition be rejected by the Senate or the House of Representatives, as the case may be, because it—

[(1) proposes to transfer, reassign, consolidate, or abolish a major combatant function, power, or duty assigned to the Army, Navy, Air Force, or Marine Corps by section 3062(b), 5012, 5013, or 8062(c) of this title; and

[(2) would, in its judgment, tend to impair the defense of the United States.

If either of those Committees, within that period, reports such a resolution and it is not adopted by the Senate or the House of Representatives, as the case may be, within the first 40 days that Congress is in continuous session after that resolution is so reported, the transfer, reassignment, consolidation, or abolition concerned takes effect on the first day after the expiration of that forty-day period. For the purposes of this subsection, a session may be considered as not continuous only if broken by an adjournment of Congress sine die. However, in computing the period that Congress is in continuous session, days that the Senate or the House of Representatives is not in session because of an adjournment of more than three days to a day certain are not counted].

(b) Notwithstanding subsection (a), if the President determines it to be necessary because of hostilities or an imminent threat of hostilities, any function, power, or duty vested by law in the Department of Defense, or an officer, official, or agency thereof, including one assigned to the Army, Navy, Air Force, or Marine Corps by section 3062(b), [5012, 5013] 5242, 5243, or 8062(c) of this title, may be transferred, reassigned, or consolidated. The transfer, reassignment, or consolidation remains in effect until the President determines that hostilities have terminated or that there is no longer an imminent threat of hostilities, as the case may be.

(c) Notwithstanding subsection (a), the Secretary of Defense may assign or reassign the development and operational use of new weapons or weapons systems to one or more of the military depart-