

1055; Pub. L. 101–510, div. A, title XIII, §1301(3), Nov. 5, 1990, 104 Stat. 1668; Pub. L. 113–291, div. A, title X, §1071(c)(1), Dec. 19, 2014, 128 Stat. 3508; Pub. L. 115–232, div. A, title VIII, §809(a), Aug. 13, 2018, 132 Stat. 1840; Pub. L. 116–283, div. A, title IX, §924(b)(3)(A), (b)(6), Jan. 1, 2021, 134 Stat. 3821, 3822.)

HISTORICAL AND REVISION NOTES

Revised section	Source (U.S. Code)	Source (Statutes at Large)
125(a)	5:171a(c)(1), (2). 5:171n(a) (as applicable to 5:171a(c)(1)).	July 26, 1947, ch. 343, §202(c)(1), (2), (4), (5), (6); added Aug. 10, 1949, ch. 412, §5(3d, 4th, 6th, 7th, and 8th pars.); re-stated Aug. 6, 1956, Pub. L. 85–599, §3(a), (1st, 2d, 5th, 6th, and 7th pars.), 72 Stat. 514, 515.
125(b)	5:171a(c)(5). 5:171n(a) (as applicable to 5:171a(c)(5)).	July 26, 1947, ch. 343, §308(a) (as applicable to §202(c)(1), (5), (6)), 61 Stat. 509.
125(c)	5:171a(c)(4).	
125(d)	5:171a(c)(6). 5:171n(a) (as applicable to 5:171a(c)(6)).	

In subsection (a), the following substitutions are made: “Except as provided by subsections (b) and (c)” for “except as otherwise provided in this subsection”; “vested . . . by law” for “established by law to be performed by”; “recommending” for “stating”; “proposes” for “contemplates”; and “the period” for “the thirty-day period or the forty-day period”. The words “on the first day after” are inserted for clarity. The words “if carried out” are omitted as surplusage.

In subsection (b), the words “Notwithstanding subsection (a)” are substituted for the words “Notwithstanding other provisions of this subsection”; and “Unless the President determines otherwise” for “subject to the determination of the President”.

In subsection (c), the following substitutions are made: “Notwithstanding subsection (a)” for “Notwithstanding the provisions of paragraph (1) hereof”; and “armed forces” for “services”.

In subsection (d), the following substitutions are made: “In subsection (a) (1)” for “within the meaning of paragraph (1) hereof”; and “considers” for “deems”. The words “advantageous to the Government in terms of” are omitted as surplusage.

Editorial Notes

AMENDMENTS

2021—Subsec. (b). Pub. L. 116–283 substituted “Marine Corps, or Space Force” for “or Marine Corps” and “9062(c), or 9081” for “or 9062(c)”.

2018—Subsec. (b). Pub. L. 115–232 substituted “section 7062(b), 8062, 8063, or 9062(c)” for “section 3062(b), 5062, 5063, or 8062(c)”.

2014—Subsec. (a). Pub. L. 113–291 substituted “(50 U.S.C. 3002)” for “(50 U.S.C. 401)”.

1990—Subsec. (c). Pub. L. 101–510 struck out at end “However, notwithstanding any other provision of this title or any other law, the Secretary of Defense shall not direct or approve a plan to initiate or effect a substantial reduction or elimination of a major weapons system until the Secretary of Defense has reported all the pertinent details of the proposed action to the Congress of the United States while the Congress is in session.”

1986—Subsec. (a). Pub. L. 99–433, §103(1), struck out provision under which the Secretary of Defense could substantially transfer, reassign, consolidate, or abolish functions, powers, or duties vested in the Department of Defense by law if the Secretary reported the details of the proposed transfer, reassignment, consolidation, or abolition to Congress and if Congress did not affirmatively reject the proposal.

Subsec. (b). Pub. L. 99–433, §§103(2), 514(c)(1), inserted “vested by law in the Department of Defense, or an officer, official, or agency thereof” and substituted “5062, 5063” for “5012, 5013”.

Subsec. (d). Pub. L. 99–433, §301(b)(1), struck out subsec. (d) which read as follows: “In subsection (a)(1), ‘major combatant function, power, or duty’ does not include a supply or service activity common to more than one military department. The Secretary of Defense shall, whenever he determines it will be more effective, economical, or efficient, provide for the performance of such an activity by one agency or such other organizations as he considers appropriate.”

1984—Subsec. (a). Pub. L. 98–525 substituted “section 2 of the National Security Act of 1947 (50 U.S.C. 401)” for “section 401 of title 50”.

1966—Subsec. (c). Pub. L. 89–501 required the Secretary of Defense to report to the Congress all the pertinent details regarding any substantial reduction or elimination of a major weapons system before action could be initiated or effected by the Department of Defense.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

RESOLUTIONS RELATING TO TRANSFERS, REASSIGNMENTS, CONSOLIDATIONS, OR ABOLITIONS OF COMBATANT FUNCTIONS

Pub. L. 87–651, title III, §303, Sept. 7, 1962, 76 Stat. 525, provided that:

“(a) For the purposes of this section, any resolution reported to the Senate or the House of Representatives pursuant to the provisions of section 125 of title 10, United States Code, shall be treated for the purpose of consideration by either House, in the same manner as a resolution with respect to a reorganization plan reported by a committee within the meaning of the Reorganization Act of 1949 as in effect on July 1, 1958 (5 U.S.C. 133z and the following) [63 Stat. 203; 71 Stat. 611], and shall be governed by the provisions applicable to the consideration of any such resolution by either House of the Congress as provided by sections 205 and 206 of that Act [63 Stat. 207].

“(b) The provisions of this section are enacted by the Congress—

“(1) as an exercise of the rule-making power of the Senate and the House of Representatives, respectively, and as such they shall be considered as part of the rules of each House, respectively, and supersede other rules only to the extent that they are inconsistent therewith; and

“(2) with full recognition of the constitutional right of either House to change the rules (as far as relating to the procedure in that House) at any time, in the same manner and to the same extent as in the case of any other rule of that House.”

§ 125a. Reform: improvement of efficacy and efficiency

(a) IN GENERAL.—The Secretary of Defense shall take such action as is necessary to reform the Department of Defense to improve the efficacy and efficiency of the Department, and to improve the ability of the Department to prioritize among and assess the costs and benefits of covered elements of reform.

(b) POLICY.—The Secretary shall develop a policy and issue guidance to implement reform within the Department and to improve the ability of the Department to prioritize among and assess the costs and benefits of covered elements of reform.

(c) FRAMEWORK FOR REFORM.—

(1) IN GENERAL.—Not later than February 1, 2023, the Secretary shall establish policies,

guidance, and a consistent reporting framework to measure the progress of the Department toward covered elements of reform, including by establishing categories of reform, consistent metrics, and a process for prioritization of reform activities.

(2) SCOPE.—The framework required by paragraph (1) may address duties under the following:

- (A) Section 125 of this title.
- (B) Section 192 of this title.
- (C) Section 2222 of this title.
- (D) Section 1124 of title 31.
- (E) Section 11319 of title 40.

(3) CONSULTATION.—The Secretary shall consult with the Deputy Secretary of Defense, the Performance Improvement Officer of the Department of Defense, the Chief Data Officer of the Department of Defense, the Chief Information Officer of the Department of Defense, the Director for Administration and Management of the Department of Defense, and the financial managers of the military departments in carrying out activities under this subsection.

(d) COVERED ELEMENTS OF REFORM.—For purposes of this section and the policies, guidance, and reporting framework required by subsection (c), covered elements of reform may include the following:

- (1) Business systems modernization.
- (2) Enterprise business operations process re-engineering.
- (3) Expanded and modernized collection, management, dissemination, and visualization of data to support decision-making at all levels of the enterprise.
- (4) Improvements in workforce training and education and increasing capabilities of the Department workforce to support and execute reform activities and business processes.
- (5) Improvements to decision-making processes to enable cost savings, cost avoidance, or investments to develop process improvements.
- (6) Development and implementation of a uniform methodology for tracking and assessing cost savings and cost avoidance from reform initiatives.
- (7) Implementation of reform-focused research to improve management and administrative science.
- (8) Tracking and implementation of technological approaches to improve management decision-making, such as artificial intelligence tools.
- (9) Such other elements as the Secretary considers appropriate.

(e) ANNUAL REPORT.—At the same time the budget of the President for a fiscal year is submitted to Congress pursuant to section 1105 of title 31, the Secretary shall, using the policies, guidance, and reporting framework required by subsection (c), submit to the congressional defense committees a report, including detailed narrative justifications and tradeoff analyses between options, on the actions of the Department as follows:

- (1) The activities, expenditures, and accomplishments carried out or made to effect reform under this section during the fiscal year in which such budget is submitted.

(2) The proposed activities, expenditures, and accomplishments to effect reform under this section, and consistent with priorities established by the Secretary, during the fiscal year covered by such budget and each of the four succeeding fiscal years.

(Added Pub. L. 116–283, div. A, title IX, §911(a)(1), Jan. 1, 2021, 134 Stat. 3800; amended Pub. L. 117–263, div. A, title IX, §911, Dec. 23, 2022, 136 Stat. 2750.)

Editorial Notes

AMENDMENTS

2022—Subsec. (c)(1). Pub. L. 117–263, §911(1)(A), substituted “2023” for “2022”.

Subsec. (c)(3). Pub. L. 117–263, §911(1)(B), inserted “the Director for Administration and Management of the Department of Defense,” after “the Chief Information Officer of the Department of Defense.”

Subsec. (d)(6) to (9). Pub. L. 117–263, §911(2), added pars. (6) to (8) and redesignated former par. (6) as (9).

Statutory Notes and Related Subsidiaries

STRATEGIC MANAGEMENT DASHBOARD DEMONSTRATION

Pub. L. 117–263, div. A, title IX, §916, Dec. 23, 2022, 136 Stat. 2755, provided that:

“(a) IN GENERAL.—Not later than one year after the date of the enactment of this Act [Dec. 23, 2022], the Secretary of Defense shall conduct a demonstration of a strategic management dashboard to automate the data collection and data visualization of the primary management goals of the Department of Defense.

“(b) ELEMENTS.—The Secretary of Defense shall ensure that the strategic management dashboard demonstrated under subsection (a) includes the following:

“(1) The capability for real-time monitoring of the performance of the Department of Defense in meeting the management goals of the Department.

“(2) An integrated analytics capability, including the ability to dynamically add or upgrade new capabilities when needed.

“(3) Integration with the framework required by subsection (c) of section 125a of title 10, United States Code, for measuring the progress of the Department toward covered elements of reform (as defined in subsection (d) of that section).

“(4) Incorporation of the elements of the strategic management plan required by section 904(d) of the National Defense Authorization Act of Fiscal Year 2008 (Public Law 110–181; 10 U.S.C. note prec. 2201), as derived from automated data feeds from existing information systems and databases.

“(5) Incorporation of the elements of the most recent annual performance plan of the Department required by section 1115(b) of title 31, United States Code, and the most recent update on performance of the Department required by section 1116 of that title.

“(6) Use of artificial intelligence and machine learning tools to improve decision making and assessment relating to data analytics.

“(7) Adoption of leading and lagging indicators for key strategic management goals.

“(c) AUTHORITIES.—

“(1) IN GENERAL.—In conducting the demonstration required by subsection (a), the Secretary of Defense may use the authorities described in paragraph (2), and such other authorities as the Secretary considers appropriate—

“(A) to help accelerate the development of innovative technological or process approaches; and

“(B) to attract new entrants to solve the data management and visualization challenges of the Department.

“(2) AUTHORITIES DESCRIBED.—The authorities described in this paragraph are the authorities provided under the following provisions of law:

“(A) Section 4025 of title 10, United States Code (relating to prizes for advanced technology achievements).

“(B) Section 217 of the National Defense Authorization Act for Fiscal Year 2016 (Public Law 114-92; 10 U.S.C. 2222 note) (relating to science and technology activities to support business systems information technology acquisition programs).

“(C) Section 908 of the National Defense Authorization Act for Fiscal Year 2022 (Public Law 117-81; 10 U.S.C. 129a note) (relating to management innovation activities).

“(d) USE OF BEST PRACTICES.—In conducting the demonstration required by subsection (a), the Secretary of Defense shall leverage commercial best practices in management and leading research in management and data science.

“(e) STRATEGIC MANAGEMENT DASHBOARD DEFINED.—In this section, the term ‘strategic management dashboard’ means a system for dynamically displaying management metrics, performance goals, and other information necessary for Department of Defense leadership to make strategic decisions related to the management of the Department using modern, commercial practices for data visualization and drawn from existing automated information systems available to the Department.”

IMPLEMENTING POLICIES, GUIDANCE, AND REPORTING FRAMEWORK

Pub. L. 116-283, div. A, title IX, §911(b), Jan. 1, 2021, 134 Stat. 3801, provided that:

“(1) SUBMITTAL TO CONGRESS.—Not later than March 1, 2022, the Secretary of Defense shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a report setting forth the policies, guidance, and reporting framework established pursuant to subsection (c) of section 125a of title 10, United States Code (as added by subsection (a) of this section).

“(2) UPDATE.—Not later than 90 days after the date of the submittal to Congress of the report required by section 901(d) of this Act [10 U.S.C. 132a note], the Secretary shall update the reporting framework referred to in paragraph (1).”

§ 126. Transfer of funds and employees

(a) When a function, power, or duty or an activity of a department or agency of the Department of Defense is transferred or assigned to another department or agency of that department, balances of appropriations that the Secretary of Defense determines are available and needed to finance or discharge that function, power, duty, or activity, as the case may be, may, with the approval of the President, be transferred to the department or agency to which that function, power, duty or activity, as the case may be, is transferred, and used for any purpose for which those appropriations were originally available. Balances of appropriations so transferred shall—

(1) be credited to any applicable appropriation account of the receiving department or agency; or

(2) be credited to a new account that may be established on the books of the Department of the Treasury;

and be merged with the funds already credited to that account and accounted for as one fund. Balances of appropriations credited to an account under clause (1) are subject only to such limitations as are specifically applicable to that account. Balances of appropriations credited to an account under clause (2) are subject only to

such limitations as are applicable to the appropriations from which they are transferred.

(b) When a function, power, or duty or an activity of a department or agency of the Department of Defense is transferred to another department or agency of that department, those civilian employees of the department or agency from which the transfer is made that the Secretary of Defense determines are needed to perform that function, power, or duty, or for that activity, as the case may be, may, with the approval of the President, be transferred to the department or agency to which that function, power, duty, or activity, as the case may be, is transferred. The authorized strength in civilian employees of a department or agency from which employees are transferred under this section is reduced by the number of employees so transferred. The authorized strength in civilian employees of a department or agency to which employees are transferred under this section is increased by the number of employees so transferred.

(Added Pub. L. 87-651, title II, §201(a), Sept. 7, 1962, 76 Stat. 516; amended Pub. L. 96-513, title V, §511(2), Dec. 12, 1980, 94 Stat. 2920.)

HISTORICAL AND REVISION NOTES

Revised section	Source (U.S. Code)	Source (Statutes at Large)
126(a)	5:172f(a). 5:171n(a) (as applicable to 5:172f(a)).	July 26, 1947, ch. 343, § 407; added Aug. 10, 1949, ch. 412, § 11 (21st and 22d pars.), 63 Stat. 589.
126(b)	5:172f (less (a)).	July 26, 1947, ch. 343, § 308(a) (as applicable to § 407), 61 Stat. 509.

In subsection (a), the words “under authority of law” are omitted as surplusage. The following substitutions are made: “needed” for “necessary”; “used” for “be available for use by”; and “those appropriations” for “said funds”.

In subsection (b), 5 U.S.C. 172f(b) is restated to reflect more clearly its purpose to authorize “transfers of personnel” (Senate Report No. 366, 81st Congress, p. 23).

Editorial Notes

AMENDMENTS

1980—Subsec. (b) Pub. L. 96-513 substituted “President” for “Director of the Bureau of the Budget”.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96-513 effective Dec. 12, 1980, see section 701(b)(3) of Pub. L. 96-513, set out as a note under section 101 of this title.

Executive Documents

DELEGATION OF FUNCTIONS

Authority of President under subsec. (a) of this section to approve transfers of balances of appropriations provided for therein delegated to Director of Office of Management and Budget, see section 9(2) of Ex. Ord. No. 11609, July 22, 1971, 36 F.R. 13747, set out as a note under section 301 of Title 3, The President.

§ 127. Emergency and extraordinary expenses

(a) Subject to the limitations of subsection (c), and within the limitation of appropriations made for the purpose, the Secretary of Defense,