

“(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,

the Inspector General of the Department of Defense, and the Secretary of a military department within his department, may provide for any emergency or extraordinary expense which cannot be anticipated or classified. When it is so provided in such an appropriation, the funds may be spent on approval or authority of the Secretary concerned or the Inspector General for any purpose he determines to be proper, and such a determination is final and conclusive upon the accounting officers of the United States. The Secretary concerned or the Inspector General may certify the amount of any such expenditure authorized by him that he considers advisable not to specify, and his certificate is sufficient voucher for the expenditure of that amount. The authority to expend amounts made available for the Military Intelligence Program for intelligence and counterintelligence objects of a confidential, extraordinary, or emergency nature is provided by section 429a of this title instead of this section.

(b) The authority conferred by this section may be delegated by the Secretary of Defense to any person in the Department of Defense, by the Inspector General to any person in the Office of the Inspector General, or by the Secretary of a military department to any person within his department, with or without the authority to make successive redelegations.

(c)(1) Funds may not be obligated or expended in an amount in excess of \$500,000 under the authority of subsection (a) or (b) until the Secretary of Defense has notified the congressional defense committees of the intent to obligate or expend the funds, and—

(A) in the case of an obligation or expenditure in excess of \$1,000,000, 15 days have elapsed since the date of the notification; or

(B) in the case of an obligation or expenditure in excess of \$500,000, but not in excess of \$1,000,000, 5 days have elapsed since the date of the notification.

(2) Subparagraph (A) or (B) of paragraph (1) shall not apply to an obligation or expenditure of funds otherwise covered by such subparagraph if the Secretary of Defense determines that the national security objectives of the United States will be compromised by the application of the subparagraph to the obligation or expenditure. If the Secretary makes a determination with respect to an obligation or expenditure under the preceding sentence, the Secretary shall immediately notify the committees referred to in paragraph (1) that such obligation or expenditure is necessary and provide any relevant information (in classified form, if necessary) jointly to the chairman and ranking minority member (or their designees) of such committees.

(3) A notification under paragraph (1) and information referred to in paragraph (2) shall include the amount to be obligated or expended, as the case may be, and the purpose of the obligation or expenditure.

(4)(A) Notwithstanding paragraph (1), funds may not be obligated or expended in an amount in excess of \$100,000 under the authority of subsection (a) or (b) for intelligence or counter-intelligence activities until the Secretary of Defense has notified the congressional defense committees and the congressional intelligence

committees of the intent to obligate or expend the funds and 15 days have elapsed since the date of the notification.

(B) The Secretary of Defense may waive subparagraph (A) if the Secretary determines that such a waiver is necessary due to extraordinary circumstances that affect the national security of the United States. If the Secretary issues a waiver under this subparagraph, the Secretary shall submit to the congressional defense and congressional intelligence committees, by not later than 48 hours after issuing the waiver, written notice of and justification for the waiver.

(d) ANNUAL REPORT.—(1) Not later than December 1 each year, the Secretary of Defense shall submit—

(A) to the congressional defense committees a report on all expenditures during the preceding fiscal year under subsections (a) and (b); and

(B) to the congressional intelligence committees a report on expenditures relating to intelligence and counter-intelligence during the preceding fiscal year under subsections (a) and (b).

(2) Each report submitted under paragraph (1) shall include, for each individual expenditure covered by such report in an amount in excess of \$100,000, the following:

(A) A detailed description of the purpose of such expenditure.

(B) The amount of such expenditure.

(C) An identification of the approving authority for such expenditure.

(D) A justification why other authorities available to the Department could not be used for such expenditure.

(E) Any other matters the Secretary considers appropriate.

(e) DEFINITION OF CONGRESSIONAL INTELLIGENCE COMMITTEES.—In this section, the term “congressional intelligence committees” means the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate.

(Added Pub. L. 94-106, title VIII, §804(a), Oct. 7, 1975, 89 Stat. 538, §140; amended Pub. L. 98-94, title XII, §1268(2), Sept. 24, 1983, 97 Stat. 705; renumbered §127 and amended Pub. L. 99-433, title I, §§101(a)(3), 110(d)(4), Oct. 1, 1986, 100 Stat. 994, 1002; Pub. L. 103-160, div. A, title III, §361, Nov. 30, 1993, 107 Stat. 1627; Pub. L. 103-337, div. A, title III, §378, Oct. 5, 1994, 108 Stat. 2737; Pub. L. 104-106, div. A, title IX, §915, title XV, §1502(a)(5), Feb. 10, 1996, 110 Stat. 413, 502; Pub. L. 106-65, div. A, title X, §1067(1), Oct. 5, 1999, 113 Stat. 774; Pub. L. 108-136, div. A, title X, §1031(a)(2), Nov. 24, 2003, 117 Stat. 1596; Pub. L. 115-91, div. A, title X, §§1041(a)-(c), 1081(a)(4), Dec. 12, 2017, 131 Stat. 1552, 1553, 1594; Pub. L. 116-92, div. A, title X, §1012, title XVII, §1731(a)(5), Dec. 20, 2019, 133 Stat. 1577, 1812; Pub. L. 118-159, div. A, title XVI, §1614(e)(2), Dec. 23, 2024, 138 Stat. 2169.)

#### Editorial Notes

##### AMENDMENTS

2024—Subsec. (a). Pub. L. 118-159 inserted at end “The authority to expend amounts made available for the

Military Intelligence Program for intelligence and counterintelligence objects of a confidential, extraordinary, or emergency nature is provided by section 429a of this title instead of this section.”

2019—Subsec. (c)(1). Pub. L. 116-92, §1731(a)(5), inserted “the” before “congressional defense committees”.

Subsec. (d)(2). Pub. L. 116-92, §1012, amended par. (2) generally. Prior to amendment, par. (2) read as follows: “Each report required to be submitted under paragraph (1) shall include a detailed explanation, by category of activity and approving authority (the Secretary of Defense, the Inspector General of the Department of Defense, and the Secretary of a military department), of the expenditures during the preceding fiscal year.”

2017—Subsec. (c)(1). Pub. L. 115-91, §1081(a)(4), substituted “congressional defense committees” for “the Committee on Armed Services and the Committee on Appropriations of the Senate and the Committee on Armed Services and the Committee on Appropriations of the House of Representatives” in introductory provisions.

Subsec. (c)(4). Pub. L. 115-91, §1041(a), added par. (4). Subsec. (d). Pub. L. 115-91, §1041(b), designated existing provisions as par. (1), substituted “submit—” for “submit to the congressional defense committees a report on expenditures during the preceding fiscal year under subsections (a) and (b).”, added subpars. (A) and (B) of par. (1), and added par. (2).

Subsec. (e). Pub. L. 115-91, §1041(c), added subsec. (e).

2003—Subsec. (d). Pub. L. 108-136 amended subsec. (d) generally. Prior to amendment, subsec. (d) read as follows: “In any case in which funds are expended under the authority of subsections (a) and (b), the Secretary of Defense shall submit a report of such expenditures on a quarterly basis to the Committee on Armed Services and the Committee on Appropriations of the Senate and the Committee on Armed Services and the Committee on Appropriations of the House of Representatives.”

1999—Subsecs. (c)(1), (d). Pub. L. 106-65 substituted “and the Committee on Armed Services” for “and the Committee on National Security”.

1996—Subsec. (c). Pub. L. 104-106, §915(2), added subsec. (c). Former subsec. (c) redesignated (d).

Pub. L. 104-106, §1502(a)(5), substituted “Committee on Armed Services and the Committee on Appropriations of the Senate and the Committee on National Security and the Committee on Appropriations of the Senate and” for “Committees on Armed Services and Appropriations of the Senate and”.

Subsec. (d). Pub. L. 104-106, §915(1), redesignated subsec. (c), as amended by Pub. L. 104-106, §§1502(a)(5), 1506, as (d).

1994—Subsec. (c). Pub. L. 103-337 struck out par. (1) designation before “In any case” and struck out par. (2) which read as follows: “The amount of funds expended by the Inspector General of the Department of Defense under subsections (a) and (b) during a fiscal year may not exceed \$400,000.”

1993—Subsec. (a). Pub. L. 103-160, §361(1), inserted “, the Inspector General of the Department of Defense,” after “the Secretary of Defense” and “or the Inspector General” after “the Secretary concerned” and after “The Secretary concerned”.

Subsec. (b). Pub. L. 103-160, §361(2), inserted “, by the Inspector General to any person in the Office of the Inspector General,” after “the Department of Defense”.

Subsec. (c). Pub. L. 103-160, §361(3), designated existing provisions as par. (1) and added par. (2).

1986—Pub. L. 99-433 renumbered section 140 of this title as this section and substituted “Emergency” for “Emergencies” in section catchline.

1983—Subsec. (a). Pub. L. 98-94 struck out “of this section” after “subsection (c)”.

Subsec. (c). Pub. L. 98-94 struck out “of this section” after “subsections (a) and (b)”.

### Statutory Notes and Related Subsidiaries

#### CONSTRUCTION AUTHORITY OF SECRETARY OF DEFENSE UNDER DECLARATION OF WAR OR NATIONAL EMERGENCY

Pub. L. 97-99, title IX, §903, Dec. 23, 1981, 95 Stat. 1382, which authorized the Secretary of Defense, in the event of a declaration of war or the declaration of a national emergency by the President, to undertake military construction without regard to any other provisions of law, was repealed and restated as section 2808 of this title by Pub. L. 97-214, §§2(a), 7(18), July 12, 1982, 96 Stat. 157, 174, effective Oct. 1, 1982.

#### § 127a. Operations for which funds are not provided in advance: funding mechanisms

(a) IN GENERAL.—(1) The Secretary of Defense shall use the procedures prescribed by this section with respect to any operation specified in paragraph (2) that involves—

(A) the deployment (other than for a training exercise) of elements of the armed forces for a purpose other than a purpose for which funds have been specifically provided in advance; or

(B) the provision of humanitarian assistance, disaster relief, or support for law enforcement (including immigration control) for which funds have not been specifically provided in advance.

(2) This section applies to—

(A) any operation the incremental cost of which is expected to exceed \$50,000,000; and

(B) any other operation the expected incremental cost of which, when added to the expected incremental costs of other operations that are currently ongoing, is expected to result in a cumulative incremental cost of ongoing operations of the Department of Defense in excess of \$100,000,000.

Any operation the incremental cost of which is expected not to exceed \$10,000,000 shall be disregarded for the purposes of subparagraph (B).

(3) This section does not provide authority for the President or the Secretary of Defense to carry out any operation, but establishes mechanisms for the Department of Defense by which funds are provided for operations that the armed forces are required to carry out under some other authority.

(b) WAIVER OF REQUIREMENT TO REIMBURSE SUPPORT UNITS.—(1) The Secretary of Defense shall direct that, when a unit of the armed forces participating in an operation described in subsection (a) receives services from an element of the Department of Defense that operates through the Defense Business Operations Fund (or a successor fund), such unit of the armed forces may not be required to reimburse that element for the incremental costs incurred by that element in providing such services, notwithstanding any other provision of law or any Government accounting practice.

(2) The amounts which but for paragraph (1) would be required to be reimbursed to an element of the Department of Defense (or a fund) shall be recorded as an expense attributable to the operation and shall be accounted for separately.

(c) TRANSFER AUTHORITY.—(1) Whenever there is an operation of the Department of Defense described in subsection (a), the Secretary of De-