

Oct. 17, 1963, Pub. L. 88-149, title V, §507, 77 Stat. 264.
 Aug. 9, 1962, Pub. L. 87-577, title V, §507, 76 Stat. 328.
 Aug. 17, 1961, Pub. L. 87-144, title II, §201, 75 Stat. 367, 369.
 July 7, 1960, Pub. L. 86-601, title II, §201, 74 Stat. 340, 342.
 Aug. 18, 1959, Pub. L. 86-166, title II, §201, 73 Stat. 368, 370.
 Aug. 22, 1958, Pub. L. 85-724, title III, §301, title V, §501, 72 Stat. 714, 721.
 Aug. 2, 1957, Pub. L. 85-117, title III, §301, title V, §501, 71 Stat. 314, 321.
 July 2, 1956, ch. 488, title III, §301, title V, §501, 70 Stat. 457, 464.
 July 13, 1955, ch. 358, title III, §301, title V, §501, 69 Stat. 304, 312.
 June 30, 1954, ch. 432, title IV, §401, title VI, §601, 68 Stat. 339, 347.
 Aug. 1, 1953, ch. 305, title III, §301, title V, §501, 67 Stat. 339, 348.
 July 10, 1952, ch. 630, title III, §301, title V, §501, 66 Stat. 520, 530.
 Oct. 18, 1951, ch. 512, title III, §301, title V, §501, 65 Stat. 429, 443.
 Sept. 6, 1950, ch. 896, Ch. X, title III, §301, title V, §501, 64 Stat. 735, 750.
 Oct. 29, 1949, ch. 787, title III, §301, title V, §501, 63 Stat. 992, 1015.
 June 24, 1948, ch. 632, 62 Stat. 655.
 July 30, 1947, ch. 357, title I, §1, 61 Stat. 557.
 July 16, 1946, ch. 583, §1, 60 Stat. 547, 548.
 July 3, 1945, ch. 265, §1, 59 Stat. 390.
 June 28, 1944, ch. 303, §1, 58 Stat. 580.
 July 1, 1943, ch. 185, §1, 57 Stat. 354.
 July 2, 1942, ch. 477, §1, 56 Stat. 617.
 June 30, 1941, ch. 262, §1, 55 Stat. 373.
 June 13, 1940, ch. 343, §1, 54 Stat. 358, 359.
 Apr. 26, 1939, ch. 88, §1, 53 Stat. 600.
 June 11, 1938, ch. 37, §1, 52 Stat. 649.
 July 1, 1937, ch. 423, §1, 50 Stat. 450.
 May 15, 1936, ch. 404, §1, title I, 49 Stat. 1286.
 Apr. 9, 1935, ch. 54, §1, title I, 49 Stat. 128.
 Apr. 26, 1934, ch. 165, title I, 48 Stat. 621.
 Mar. 4, 1933, ch. 281, title I, 47 Stat. 1577.
 July 14, 1932, ch. 482, title I, 47 Stat. 670, 671.
 Feb. 23, 1931, ch. 279, title I, 46 Stat. 1283, 1284.
 May 28, 1930, ch. 348, title I, 46 Stat. 438.
 Feb. 28, 1929, ch. 366, title I, 45 Stat. 1356.
 Mar. 23, 1928, ch. 232, title I, 45 Stat. 332.
 Feb. 23, 1927, ch. 167, title I, 44 Stat. 1113.
 Apr. 15, 1926, ch. 146, title I, 44 Stat. 262.
 Feb. 12, 1925, ch. 225, title I, 43 Stat. 900.

AMENDMENTS

1985—Pub. L. 99-145 substituted “enlistment” for “enlistments”.

EFFECTIVE DATE

Section 1404 of Pub. L. 98-525 provided that: “The amendments made by sections 1401 [enacting this section and sections 956, 979 to 981, 1047 to 1050, 1074b [now 1074c], 1093, 1589, 2007 to 2009, 2484, 2638, and 2639 of this title, amending sections 1074, 1077, 1079, 2104, and 7204 of this title, and repealing section 7208 of this title], 1402 [enacting section 306a of Title 37, Pay and Allowances of the Uniformed Services, and amending sections 206 and 404 of Title 37], and 1403 [amending provisions set out as a note under section 138 of this title and repealing provisions set out as notes under sections 138 and 2102 of this title] take effect on October 1, 1985.”

§ 520c. Recruiting functions: provision of meals and refreshments

Under regulations prescribed by the Secretary concerned, funds appropriated to the Department of Defense for recruitment of military personnel may be expended for small meals and refreshments during recruiting functions for the following persons:

(1) Persons who have enlisted under the Delayed Entry Program authorized by section 513 of this title.

(2) Persons who are objects of armed forces recruiting efforts.

(3) Persons whose assistance in recruiting efforts of the military departments is determined to be influential by the Secretary concerned.

(4) Members of the armed forces and Federal employees when attending recruiting functions in accordance with a requirement to do so.

(5) Other persons whose presence at recruiting functions will contribute to recruiting efforts.

(Added Pub. L. 104-201, div. A, title III, §361(a), Sept. 23, 1996, 110 Stat. 2491; amended Pub. L. 107-107, div. A, title V, §545, Dec. 28, 2001, 115 Stat. 1113; Pub. L. 108-136, div. A, title X, §1031(a)(8)(A), Nov. 24, 2003, 117 Stat. 1596.)

AMENDMENTS

2003—Pub. L. 108-136 substituted “provision of meals and refreshments” for “use of funds” in section catchline, struck out “(a) PROVISION OF MEALS AND REFRESHMENTS.—” before “Under regulations”, and struck out heading and text of subsec. (b). Text read as follows: “Not later than February 1 of each of the years 1998 through 2002, the Secretary of Defense shall submit to Congress a report on the extent to which the authority under subsection (a) was exercised during the fiscal year ending in the preceding year.”

2001—Subsec. (a)(4). Pub. L. 107-107, §545(b)(1), substituted “recruiting functions” for “recruiting events”.

Subsec. (a)(5). Pub. L. 107-107, §545(b)(2), substituted “presence at recruiting functions” for “presence at recruiting efforts”.

Subsec. (c). Pub. L. 107-107, §545(a), struck out heading and text of subsec. (c). Text read as follows: “The authority in subsection (a) may not be exercised after September 30, 2001.”

CHAPTER 32—OFFICER STRENGTH AND DISTRIBUTION IN GRADE

Sec.	
521.	Authority to prescribe total strengths of officers on active duty and officer strengths in various categories.
[522.	Repealed.]
523.	Authorized strengths: commissioned officers on active duty in grades of major, lieutenant colonel, and colonel and Navy grades of lieutenant commander, commander, and captain.
[524.	Renumbered.]
525.	Distribution of commissioned officers on active duty in general officer and flag officer grades.
526.	Authorized strength: general and flag officers on active duty.
527.	Authority to suspend sections 523, 525, and 526.
528.	Officers serving in certain intelligence positions: military status; application of distribution and strength limitations; pay and allowances.

AMENDMENTS

2011—Pub. L. 112-81, div. A, title V, §502(d)(2)(B), 125 Stat. 1388, added item 528 and struck out former item 528 “Officers serving in certain intelligence positions: military status; exclusion from distribution and strength limitations; pay and allowances.”

2006—Pub. L. 109-364, div. A, title V, §501(b)(2), Oct. 17, 2006, 120 Stat. 2176, substituted “Officers serving in

certain intelligence positions: military status; exclusion from distribution and strength limitations; pay and allowances” for “Exclusion: officers serving in certain intelligence positions” in item 528.

Pub. L. 109-163, div. A, title V, § 507(b), Jan. 6, 2006, 119 Stat. 3228, substituted “Exclusion: officers serving in certain intelligence positions” for “Exclusion: Associate Director of Central Intelligence for Military Support” in item 528.

2004—Pub. L. 108-375, div. A, title V, § 501(b)(2), Oct. 28, 2004, 118 Stat. 1873, struck out item 522 “Authorized total strengths: regular commissioned officers on active duty”.

2003—Pub. L. 108-136, div. A, title V, § 507(b), Nov. 24, 2003, 117 Stat. 1458, added item 528.

2001—Pub. L. 107-107, div. A, title V, § 501(b), Dec. 28, 2001, 115 Stat. 1079, struck out item 528 “Limitation on number of officers on active duty in grades of general and admiral”.

1994—Pub. L. 103-337, div. A, title IV, § 405(b)(2), title XVI, § 1671(b)(4), Oct. 5, 1994, 108 Stat. 2745, 3013, struck out item 524 “Authorized strengths: reserve officers on active duty or on full-time National Guard duty for administration of the reserves or the National Guard in grades of major, lieutenant colonel, and colonel and Navy grades of lieutenant commander, commander, and captain”, struck out “524,” after “523,” in item 527, and added item 528.

1988—Pub. L. 100-370, § 1(b)(3), July 19, 1988, 102 Stat. 840, struck out former item 526 “Authority to suspend sections 523, 524, and 525”, and added items 526 and 527.

1984—Pub. L. 98-525, title IV, § 414(a)(4)(B)(ii), inserted references to the National Guard and to full-time National Guard duty in item 524.

§ 521. Authority to prescribe total strengths of officers on active duty and officer strengths in various categories

(a) Whenever the needs of the services require, but at least once each fiscal year, the Secretary of Defense shall prescribe the total authorized active-duty strength as of the end of the fiscal year for officers in grades above chief warrant officer, W-5, for each of the armed forces under the jurisdiction of the Secretary of a military department.

(b) Under regulations prescribed by the Secretary of Defense, the Secretary of each military department may, for an armed force under his jurisdiction, prescribe the strength of any category of officers that may serve on active duty.

(Added Pub. L. 96-513, title I, § 103, Dec. 12, 1980, 94 Stat. 2841; amended Pub. L. 102-190, div. A, title XI, § 1131(1)(A), Dec. 5, 1991, 105 Stat. 1505.)

AMENDMENTS

1991—Subsec. (a). Pub. L. 102-190 substituted “chief warrant officer, W-5,” for “warrant officer (W-4)”.

EFFECTIVE DATE OF 1991 AMENDMENT

Section 1132 of title XI of Pub. L. 102-190 provided that: “This title [enacting sections 571 to 583 and 742 of this title, amending this section, sections 522, 597 [now 12241], 598 [now 12242], 603, 628, 644, 741, 1166, 1174, 1305, 1406, 5414, 5457, 5458, 5501 to 5503, 5596, 5600, 5665, 6389, and 6391 of this title, sections 286a and 334 of Title 14, Coast Guard, and sections 201, 301, 301c, 305a, and 406 of Title 37, Pay and Allowances of the Uniformed Services, repealing sections 555 to 565, 602, and 745 of this title, and enacting provisions set out as notes under sections 555 and 571 of this title and section 1009 of Title 37] and the amendments made by this title shall take effect on February 1, 1992.”

EFFECTIVE DATE

Chapter effective Sept. 15, 1981, but the authority to prescribe regulations under this chapter effective Dec.

12, 1980, see section 701 of Pub. L. 96-513, set out as an Effective Date of 1980 Amendment note under section 101 of this title.

TRANSITION PROVISIONS UNDER DEFENSE OFFICER PERSONNEL MANAGEMENT ACT

For provisions to prevent extinction or premature termination of rights, duties, penalties, or proceedings that existed or were begun prior to the effective date of Pub. L. 96-513 and otherwise to allow for an orderly transition to the system of officer personnel management put in place under Pub. L. 96-513, see section 601 et seq. of Pub. L. 96-513, set out as a note under section 611 of this title.

EVALUATION OF EFFECTS OF OFFICER STRENGTH REDUCTIONS ON OFFICER PERSONNEL MANAGEMENT SYSTEMS

Pub. L. 102-484, div. A, title V, § 502, Oct. 23, 1992, 106 Stat. 2402, directed the Secretary of Defense to provide for an independent, federally funded research and development center to review the officer personnel management system of each of the military departments and to determine and evaluate the effects of post-Cold War officer strength reductions on that officer personnel management system, required the center to submit to the Secretary of Defense a report on the results of the review and evaluation not later than Dec. 31, 1993, and directed the Secretary to transmit the report to committees of Congress within 60 days after receipt.

STRENGTH OF ACTIVE DUTY OFFICER CORPS

Pub. L. 100-456, div. A, title IV, § 402(c), Sept. 29, 1988, 102 Stat. 1963, provided that:

“(1) The number of officers serving on active duty (excluding officers in categories specified in paragraph (2)) as of September 30, 1990, may not exceed—

- “(A) in the case of the Army, 106,427; and
- “(B) in the case of the Air Force, 102,438.

“(2) Officers in the categories described in section 403(b) of the National Defense Authorization Act for Fiscal Year 1987 [Pub. L. 99-661, set out below] shall be excluded in counting officers under this subsection.”

Pub. L. 100-180, div. A, title IV, § 402, Dec. 4, 1987, 101 Stat. 1081, as amended by Pub. L. 100-456, div. A, title IV, § 402(b), Sept. 29, 1988, 102 Stat. 1963, provided that:

“(a) AUTHORITY TO INCREASE FOR FISCAL YEAR 1988.—Subject to subsection (b), the Secretary of Defense may increase by not more than 1 percentage point (to not more than 98 percent) the percentage limitation prescribed in section 403(a) of the National Defense Authorization Act for Fiscal Year 1987 (Public Law 99-661; 100 Stat. 3859) [set out below] applicable to the total number of commissioned officers of the Army, Navy, Air Force, and Marine Corps that may be serving on active duty as of September 30, 1988.

“(b) CERTIFICATION AND REPORT.—The Secretary may exercise the authority under subsection (a) only if—

“(1) the Secretary makes a determination that such increase is necessary in order to avoid severe personnel management problems in the Army, Navy, Air Force, and Marine Corps during fiscal year 1988 and certifies such determination to the Committees on Armed Services of the Senate and the House of Representatives; and

“(2) the Secretary submits to those Committees with such certification a report providing legislative recommendations for temporary changes in chapter 36 of title 10, United States Code, and other provisions of law enacted by the Defense Officer Personnel Management Act (Public Law 96-513) [see Tables for classification] that the Secretary considers necessary in order to implement the required officer reductions under such section 403 [set out below] with the least possible adverse effect on the Armed Forces.”

Pub. L. 99-661, div. A, title IV, § 403, Nov. 14, 1986, 100 Stat. 3859, as amended by Pub. L. 100-456, div. A, title IV, § 402(a), Sept. 29, 1988, 102 Stat. 1963; Pub. L. 101-189, div. A, title VI, § 653(e)(2), Nov. 29, 1989, 103 Stat. 1463; Pub. L. 103-337, div. A, title XVI, § 1677(e), Oct. 5, 1994, 108 Stat. 3020, provided that:

“(a) REDUCTION IN SIZE OF OFFICER CORPS.—On and after each of the dates set forth in column 1 of the following table, the total number of commissioned officers serving on active duty in the Army, Navy, Air Force, and Marine Corps (excluding officers in categories specified in subsection (b)) may not exceed the percentage, set forth in column 2 opposite such date, of the total number of commissioned officers serving on active duty as of September 30, 1986 (excluding officers in categories specified in subsection (b)):

Column 1	Column 2
On and after:	Percentage of total commissioned officers serving on active duty as of September 30, 1986:
September 30, 1987	99
September 30, 1988	97

“(b) EXCLUSIONS.—In computing the authorized strength of commissioned officers under subsection (a), officers in the following categories shall be excluded:

- “(1) Reserve officers—
 - “(A) on active duty for training;
 - “(B) on active duty under section 10148(a), 10211, 10302 through 10305, 12301(a), or 12402 of title 10, United States Code, or under section 708 of title 32, United States Code;
 - “(C) on active duty under section 12301(d) of title 10, United States Code, in connection with organizing, administering, recruiting, instructing, or training the reserve components or the National Guard;
 - “(D) on active duty to pursue special work;
 - “(E) ordered to active duty under section 12304 of title 10, United States Code; or
 - “(F) on full-time National Guard duty.
- “(2) Retired officers on active duty under a call or order to active duty for 180 days or less.
- “(3) Reserve or retired officers on active duty under section 10(b)(2) of the Military Selective Service Act (50 U.S.C. App. 460(b)(2)) for the administration of the Selective Service System.

“(c) APPORTIONMENT OF REDUCTIONS BY SECRETARY OF DEFENSE.—The Secretary of Defense shall apportion the reductions in the number of commissioned officers serving on active duty required by subsection (a) among the Army, Navy, Air Force, and Marine Corps. Not later than February 1 of each fiscal year in which reductions are required under subsection (a), the Secretary shall submit to the Committees on Armed Services of the Senate and House of Representatives a report on the manner in which the reductions have been or are to be apportioned for that fiscal year and for the next fiscal year for which such reductions are required.”

§ 522. Repealed. Pub. L. 108-375, div. A, title V, § 501(b)(1), Oct. 28, 2004, 118 Stat. 1873]

Section, added Pub. L. 96-513, title I, § 103, Dec. 12, 1980, 94 Stat. 2841; amended Pub. L. 98-525, title V, § 522, Oct. 19, 1984, 98 Stat. 2523; Pub. L. 102-190, div. A, title XI, § 1131(1)(B), Dec. 5, 1991, 105 Stat. 1505, related to authorized total strengths of regular commissioned officers on active duty.

EFFECTIVE DATE OF REPEAL

Repeal effective on the first day of the first month beginning more than 180 days after Oct. 28, 2004, see section 501(g) of Pub. L. 108-375, set out as an Effective Date of 2004 Amendment note under section 531 of this title.

§ 523. Authorized strengths: commissioned officers on active duty in grades of major, lieutenant colonel, and colonel and Navy grades of lieutenant commander, commander, and captain

(a)(1) Except as provided in subsection (c), of the total number of commissioned officers serving on active duty in the Army, Air Force, or Marine Corps at the end of any fiscal year (excluding officers in categories specified in subsection (b)), the number of officers who may be serving on active duty in each of the grades of major, lieutenant colonel, and colonel may not, as of the end of such fiscal year, exceed a number determined in accordance with the following table:

Total number of commissioned officers (excluding officers in categories specified in subsection (b)) on active duty:	Number of officers who may be serving on active duty in grade of:		
	Major	Lieutenant Colonel	Colonel
Army:			
20,000	7,768	5,253	1,613
25,000	8,689	5,642	1,796
30,000	9,611	6,030	1,980
35,000	10,532	6,419	2,163
40,000	11,454	6,807	2,347
45,000	12,375	7,196	2,530
50,000	13,297	7,584	2,713
55,000	14,218	7,973	2,897
60,000	15,140	8,361	3,080
65,000	16,061	8,750	3,264
70,000	16,983	9,138	3,447
75,000	17,903	9,527	3,631
80,000	18,825	9,915	3,814
85,000	19,746	10,304	3,997
90,000	20,668	10,692	4,181
95,000	21,589	11,081	4,364
100,000	22,511	11,469	4,548
110,000	24,354	12,246	4,915
120,000	26,197	13,023	5,281
130,000	28,040	13,800	5,648
170,000	35,412	16,908	7,116
Air Force:			
35,000	9,216	7,090	2,125
40,000	10,025	7,478	2,306
45,000	10,835	7,866	2,487
50,000	11,645	8,253	2,668
55,000	12,454	8,641	2,849
60,000	13,264	9,029	3,030
65,000	14,073	9,417	3,211
70,000	14,883	9,805	3,392
75,000	15,693	10,193	3,573
80,000	16,502	10,582	3,754
85,000	17,312	10,971	3,935
90,000	18,121	11,360	4,115
95,000	18,931	11,749	4,296
100,000	19,741	12,138	4,477
105,000	20,550	12,527	4,658
110,000	21,360	12,915	4,838
115,000	22,169	13,304	5,019
120,000	22,979	13,692	5,200
125,000	23,789	14,081	5,381
Marine Corps:			
10,000	2,802	1,615	633
12,500	3,247	1,768	658
15,000	3,691	1,922	684
17,500	4,135	2,076	710
20,000	4,579	2,230	736
22,500	5,024	2,383	762
25,000	5,468	2,537	787.

(2) Except as provided in subsection (c), of the total number of commissioned officers serving

on active duty in the Navy at the end of any fiscal year (excluding officers in categories specified in subsection (b)), the number of officers who may be serving on active duty in each of the grades of lieutenant commander, commander, and captain may not, as of the end of such fiscal year, exceed a number determined in accordance with the following table:

Total number of commissioned officers (excluding officers in categories specified in subsection (b)) on active duty:	Number of officers who may be serving on active duty in grade of:		
	Lieutenant Commander	Commander	Captain
Navy:			
30,000	7,698	5,269	2,222
33,000	8,189	5,501	2,334
36,000	8,680	5,733	2,447
39,000	9,172	5,965	2,559
42,000	9,663	6,197	2,671
45,000	10,155	6,429	2,784
48,000	10,646	6,660	2,896
51,000	11,136	6,889	3,007
54,000	11,628	7,121	3,120
57,000	12,118	7,352	3,232
60,000	12,609	7,583	3,344
63,000	13,100	7,813	3,457
66,000	13,591	8,044	3,568
70,000	14,245	8,352	3,718
90,000	17,517	9,890	4,467.

(3) If the total number of commissioned officers serving on active duty in an armed force (excluding officers in categories specified in subsection (b)) is between any two consecutive figures listed in the first column of the appropriate table in paragraph (1) or (2), the corresponding authorized strengths for each of the grades shown in that table for that armed force are determined by mathematical interpolation between the respective numbers of the two strengths. If the total number of commissioned officers serving on active duty in an armed force (excluding officers in categories specified in subsection (b)) is greater or less than the figures listed in the first column of the appropriate table in paragraph (1) or (2), the Secretary concerned shall fix the corresponding strengths for the grades shown in that table in the same proportion as reflected in the nearest limit shown in the table.

(b) Officers in the following categories shall be excluded in computing and determining authorized strengths under this section:

(1) Reserve officers—

(A) on active duty as authorized under section 115(a)(1)(B) or 115(b)(1) of this title, or excluded from counting for active duty end strengths under section 115(i) of this title;

(B) on active duty under section 10211, 10302 through 10305, or 12402 of this title or under section 708 of title 32; or

(C) on full-time National Guard duty.

(2) General and flag officers.

(3) Medical officers.

(4) Dental officers.

(5) Warrant officers.

(6) Retired officers on active duty under a call or order to active duty for 180 days or less.

(7) Retired officers on active duty under section 10(b)(2) of the Military Selective Service

Act (50 U.S.C. App. 460(b)(2)) for the administration of the Selective Service System.

(8) Permanent professors of the United States Military Academy and the United States Air Force Academy and professors of the United States Naval Academy who are career military professors (as defined in regulations prescribed by the Secretary of the Navy), but not to exceed 50 from any such academy.

(c) Whenever the number of officers serving in any grade is less than the number authorized for that grade under this section, the difference between the two numbers may be applied to increase the number authorized under this section for any lower grade.

(d) An officer may not be reduced in grade, or have his pay or allowances reduced, because of a reduction in the number of commissioned officers authorized for his grade under this section.

(Added Pub. L. 96-513, title I, § 103, Dec. 12, 1980, 94 Stat. 2842; amended Pub. L. 98-525, title IV, § 414(a)(3), Oct. 19, 1984, 98 Stat. 2518; Pub. L. 99-145, title V, § 511(a), Nov. 8, 1985, 99 Stat. 623; Pub. L. 99-433, title V, § 531(a)(1), Oct. 1, 1986, 100 Stat. 1063; Pub. L. 102-190, div. A, title IV, § 431, Dec. 5, 1991, 105 Stat. 1354; Pub. L. 103-337, div. A, title XVI, § 1673(c)(3), Oct. 5, 1994, 108 Stat. 3014; Pub. L. 104-201, div. A, title IV, § 403(a), (b), Sept. 23, 1996, 110 Stat. 2504, 2505; Pub. L. 107-314, div. A, title IV, § 406, Dec. 2, 2002, 116 Stat. 2526; Pub. L. 108-375, div. A, title IV, §§ 404, 416(g), Oct. 28, 2004, 118 Stat. 1864, 1868; Pub. L. 109-364, div. A, title X, § 1071(g)(1)(B), Oct. 17, 2006, 120 Stat. 2402; Pub. L. 110-181, div. A, title IV, §§ 404, 405, Jan. 28, 2008, 122 Stat. 88; Pub. L. 112-81, div. A, title V, § 501, Dec. 31, 2011, 125 Stat. 1386.)

AMENDMENTS

2011—Subsec. (a)(1). Pub. L. 112-81, in table, increased number of officers authorized to serve on active duty in the Marine Corps in each grade covered as follows: Major to 2,802, 3,247, 3,691, 4,135, 4,579, 5,024, and 5,468 from 2,525, 2,900, 3,275, 3,650, 4,025, 4,400, and 4,775, respectively; Lieutenant Colonel to 1,615, 1,768, 1,922, 2,076, 2,230, 2,383, and 2,537 from 1,480, 1,600, 1,720, 1,840, 1,960, 2,080, and 2,200, respectively; and Colonel to 633, 658, 684, 710, 736, 762, and 787 from 571, 632, 653, 673, 694, 715, and 735, respectively.

2008—Subsec. (a)(1). Pub. L. 110-181, § 404, in table, increased number of officers authorized to serve on active duty in the Army in the grade of Major to 7,768, 8,689, 9,611, 10,532, 11,454, 12,375, 13,297, 14,218, 15,140, 16,061, 16,983, 17,903, 18,825, 19,746, 20,668, 21,589, 22,511, 24,354, 26,197, 28,040, and 35,412 from 6,948, 7,539, 8,231, 8,922, 9,614, 10,305, 10,997, 11,688, 12,380, 13,071, 13,763, 14,454, 15,146, 15,837, 16,529, 17,220, 17,912, 19,295, 20,678, 22,061, and 27,593, respectively.

Subsec. (a)(2). Pub. L. 110-181, § 405, amended table generally, extensively revising the numbers in each grade covered.

2006—Subsec. (b)(1). Pub. L. 109-364 made technical correction to directory language of Pub. L. 108-375, § 416(g)(1). See 2004 Amendment note below.

2004—Subsec. (b)(1). Pub. L. 108-375, § 416(g)(1), as amended by Pub. L. 109-364, amended par. (1) generally. Prior to amendment, par. (1) read as follows:

“(1) Reserve officers—

“(A) on active duty for training;

“(B) on active duty under section 10211, 10302 through 10305, or 12402 of this title or under section 708 of title 32;

“(C) on active duty under section 12301(d) of this title in connection with organizing, administering, recruiting, instructing, or training the reserve components;

“(D) on active duty to pursue special work;

“(E) ordered to active duty under section 12304 of this title; or

“(F) on full-time National Guard duty.”

Subsec. (b)(7). Pub. L. 108-375, §416(g)(2), substituted “Retired officers” for “Reserve or retired officers”.

Subsec. (b)(8). Pub. L. 108-375, §404, added par. (8).

2002—Subsec. (a)(1). Pub. L. 107-314, in table, increased number of officers authorized to serve on active duty in the Marine Corps in the grade of Colonel to 571, 632, 653, 673, 694, 715, and 735 from 571, 592, 613, 633, 654, 675, and 695, respectively.

1996—Subsec. (a)(1). Pub. L. 104-201, §403(a), amended table generally, expanding the range of numbers of commissioned officers covered and extensively revising the numbers in each grade covered.

Subsec. (a)(2). Pub. L. 104-201, §403(b), amended table generally, expanding the range of numbers of commissioned officers covered and extensively revising the numbers in each grade covered.

1994—Subsec. (b)(1)(B). Pub. L. 103-337, §1671(c)(3)(A), substituted “10211, 10302 through 10305, or 12402” for “265, 3021, 3496, 5251, 5252, 8021, or 8496”.

Subsec. (b)(1)(C). Pub. L. 103-337, §1671(c)(3)(B), substituted “12301(d)” for “672(d)”.

Subsec. (b)(1)(E). Pub. L. 103-337, §1671(c)(3)(C), substituted “12304” for “673b”.

1991—Subsec. (a)(1). Pub. L. 102-190, in table, decreased numbers of officers authorized to serve on active duty in the Air Force in the grade of Colonel to 3,392, 3,573, 3,754, 3,935, 4,115, 4,296, 4,477, 4,658, 4,838, 5,019, 5,200, and 5,381 from 3,642, 3,823, 4,004, 4,185, 4,365, 4,546, 4,727, 4,908, 5,088, 5,269, 5,450, and 5,631, respectively.

1986—Subsec. (b)(1)(B). Pub. L. 99-433 substituted “3021” and “8021” for “3033” and “8033”, respectively.

1985—Subsec. (a)(1). Pub. L. 99-145 increased fiscal year limitation on authorized number of Marine Corps majors to 2,766, 3,085, 3,404, 3,723, and 4,042 from 2,717, 2,936, 3,154, 3,373, and 3,591, respectively.

1984—Subsec. (b)(1)(C). Pub. L. 98-525, §414(a)(3)(A), struck out “or section 502 or 503 of title 32” after “section 672(d) of this title”.

Subsec. (b)(1)(F). Pub. L. 98-525, §414(a)(3)(B)-(D), added subpar. (F).

EFFECTIVE DATE OF 2006 AMENDMENT

Pub. L. 109-364, div. A, title X, §1071(g), Oct. 17, 2006, 120 Stat. 2402, provided that the amendment made by section 1071(g)(1)(B) is effective as of Oct. 28, 2004, and as if included in Pub. L. 108-375 as enacted.

EFFECTIVE DATE OF 1996 AMENDMENT

Section 403(d) of Pub. L. 104-201 provided that: “The amendments made by subsections (a), (b), and (c) [amending this section and repealing provisions set out as notes below] shall take effect on September 1, 1997.”

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103-337 effective Dec. 1, 1994, except as otherwise provided, see section 1691 of Pub. L. 103-337, set out as an Effective Date note under section 10001 of this title.

EFFECTIVE DATE OF 1985 AMENDMENT

Section 511(b) of Pub. L. 99-145 provided that: “The amendments made by subsection (a) [amending this section] shall take effect on October 1, 1985.”

TEMPORARY VARIATION IN DOPMA AUTHORIZED END STRENGTH LIMITATIONS FOR ACTIVE DUTY AIR FORCE AND NAVY OFFICERS IN CERTAIN GRADES

Pub. L. 104-106, div. A, title IV, §402, Feb. 10, 1996, 110 Stat. 286, provided that the numbers of officers of the Air Force authorized under subsec. (a)(1) of this section to be serving on active duty in the grades of major, lieutenant colonel, and colonel for fiscal years 1996 and 1997 and the numbers of officers in the Navy authorized under subsec. (a)(2) of this section to be serving on ac-

tive duty in the grades of lieutenant commander, commander, and captain for fiscal years 1996 and 1997 were limited to numbers in tables, prior to repeal by Pub. L. 104-201, div. A, title IV, §403(c)(3), Sept. 23, 1996, 110 Stat. 2506.

TEMPORARY VARIATION OF END STRENGTH LIMITATIONS FOR ARMY MAJORS AND LIEUTENANT COLONELS

Section 402 of Pub. L. 103-337 provided that number of officers of the Army authorized under subsec. (a)(1) of this section to be serving on active duty in grades of major and lieutenant colonel for fiscal years 1995 through 1997 was limited to numbers set forth in table prior to repeal by Pub. L. 104-201, div. A, title IV, §403(c)(2), Sept. 23, 1996, 110 Stat. 2506.

TEMPORARY VARIATION OF END STRENGTH LIMITATIONS FOR MARINE CORPS MAJORS AND LIEUTENANT COLONELS

Pub. L. 103-160, div. A, title IV, §402, Nov. 30, 1993, 107 Stat. 1639, as amended by Pub. L. 103-337, div. A, title IV, §403, Oct. 5, 1994, 108 Stat. 2743, provided that number of officers of the Marine Corps authorized under subsec. (a)(1) of this section to be serving on active duty in grades of major and lieutenant colonel for fiscal years 1994 through 1997 was limited to numbers set forth in table prior to repeal by Pub. L. 104-201, div. A, title IV, §403(c)(1), Sept. 23, 1996, 110 Stat. 2505.

TEMPORARY INCREASE IN OFFICER GRADE LIMITATIONS

Pub. L. 101-189, div. A, title IV, §403, Nov. 29, 1989, 103 Stat. 1431, authorized the Secretary of Defense, until Sept. 30, 1991, to increase the strength-in-grade limitations specified in subsec. (a) of this section by a total of 250 positions, to be distributed among grades and services as the Secretary considers appropriate and directed the Secretary to submit to Congress a comprehensive report on the adequacy of the strength-in-grade limitations prescribed in subsec. (a) of this section.

TEMPORARY REDUCTION IN NUMBER OF AIR FORCE COLONELS

Pub. L. 101-189, div. A, title IV, §402, Nov. 29, 1989, 103 Stat. 1431, as amended by Pub. L. 101-510, div. A, title IV, §404, Nov. 5, 1990, 104 Stat. 1545, provided that the number of officers authorized under subsec. (a) of this section to be serving on active duty in the Air Force in the grade of colonel during fiscal year 1992 was reduced by 250.

Pub. L. 100-456, div. A, title IV, §403, Sept. 29, 1988, 102 Stat. 1963, provided that the number of officers authorized under this section to be serving on active duty in the Air Force in the grade of colonel during fiscal year 1989 was reduced by 125, and the number of such officers authorized to be serving on active duty during fiscal year 1990 was reduced by 250.

CEILINGS ON COMMISSIONED OFFICERS ON ACTIVE DUTY

Pub. L. 95-79, title VIII, §811(a), July 30, 1977, 91 Stat. 335, as amended by Pub. L. 96-107, title VIII, §817, Nov. 9, 1979, 93 Stat. 818; Pub. L. 96-342, title X, §1003, Sept. 8, 1980, 94 Stat. 1120; Pub. L. 97-86, title VI, §602, Dec. 1, 1981, 95 Stat. 1110, which provided that after Oct. 1, 1981, the total number of commissioned officers on active duty in the Army, Air Force, and Marine Corps above the grade of colonel, and on active duty in the Navy above the grade of captain, could not exceed 1,073, and that in time of war, or of national emergency declared by Congress, the President could suspend the operation of this provision, was repealed and restated in section 526 of this title by Pub. L. 100-370, §1(b)(1)(B), (4).

TRANSITION PROVISIONS UNDER DEFENSE OFFICER PERSONNEL MANAGEMENT ACT

For provisions increasing for the fiscal year ending on Sept. 30, 1981, the maximum number of officers authorized by this section to be serving on active duty,

see section 627 of Pub. L. 96-513, set out as a note under section 611 of this title.

[§ 524. Renumbered § 12011]

§ 525. Distribution of commissioned officers on active duty in general officer and flag officer grades

(a) For purposes of the applicable limitation in section 526(a) of this title on general and flag officers on active duty, no appointment of an officer on the active duty list may be made as follows:

(1) in the Army, if that appointment would result in more than—

- (A) 7 officers in the grade of general;
- (B) 45 officers in a grade above the grade of major general; or
- (C) 90 officers in the grade of major general;

(2) in the Air Force, if that appointment would result in more than—

- (A) 9 officers in the grade of general;
- (B) 43 officers in a grade above the grade of major general; or
- (C) 73 officers in the grade of major general;

(3) in the Navy, if that appointment would result in more than—

- (A) 6 officers in the grade of admiral;
- (B) 32 officers in a grade above the grade of rear admiral; or
- (C) 50 officers in the grade of rear admiral;

(4) in the Marine Corps, if that appointment would result in more than—

- (A) 2 officers in the grade of general;
- (B) 15 officers in a grade above the grade of major general; or
- (C) 22 officers in the grade of major general.

(b) The limitations of subsection (a) do not include the following:

(1) An officer released from a joint duty assignment, but only during the 60-day period beginning on the date the officer departs the joint duty assignment, except that the Secretary of Defense may authorize the Secretary of a military department to extend the 60-day period by an additional 120 days, but no more than three officers from each armed forces may be on active duty who are excluded under this paragraph.

(2) The number of officers required to serve in joint duty assignments as authorized by the Secretary of Defense under section 526(b) for each military service.

(c)(1) Subject to paragraph (3), the President—

(A) may make appointments in the Army, Air Force, and Marine Corps in the grades of lieutenant general and general in excess of the applicable numbers determined under this section if each such appointment is made in conjunction with an offsetting reduction under paragraph (2); and

(B) may make appointments in the Navy in the grades of vice admiral and admiral in excess of the applicable numbers determined under this section if each such appointment is made in conjunction with an offsetting reduction under paragraph (2).

(2) For each appointment made under the authority of paragraph (1) in the Army, Air Force, or Marine Corps in the grade of lieutenant general or general or in the Navy in the grade of vice admiral or admiral, the number of appointments that may be made in the equivalent grade in one of the other armed forces (other than the Coast Guard) shall be reduced by one. When such an appointment is made, the President shall specify the armed force in which the reduction required by this paragraph is to be made.

(3)(A) The number of officers that may be serving on active duty in the grades of lieutenant general and vice admiral by reason of appointments made under the authority of paragraph (1) may not exceed 15.

(B) The number of officers that may be serving on active duty in the grades of general and admiral by reason of appointments made under the authority of paragraph (1) may not exceed 5.

(4) Upon the termination of the appointment of an officer in the grade of lieutenant general or vice admiral or general or admiral that was made in connection with an increase under paragraph (1) in the number of officers that may be serving on active duty in that armed force in that grade, the reduction made under paragraph (2) in the number of appointments permitted in such grade in another armed force by reason of that increase shall no longer be in effect.

(d) An officer continuing to hold the grade of general or admiral under section 601(b)(5) of this title after relief from the position of Chairman of the Joint Chiefs of Staff, Chief of Staff of the Army, Chief of Naval Operations, Chief of Staff of the Air Force, or Commandant of the Marine Corps shall not be counted for purposes of this section.

(e) The following officers shall not be counted for purposes of this section:

(1) An officer of that armed force in the grade of brigadier general or above or, in the case of the Navy, in the grade of rear admiral (lower half) or above, who is on leave pending the retirement, separation, or release of that officer from active duty, but only during the 60-day period beginning on the date of the commencement of such leave of such officer.

(2) At the discretion of the Secretary of Defense, an officer of that armed force who has been relieved from a position designated under section 601(a) of this title or by law to carry one of the grades specified in such section, but only during the 60-day period beginning on the date on which the assignment of the officer to the first position is terminated or until the officer is assigned to a second such position, whichever occurs first.

(f) An officer while serving as Attending Physician to the Congress is in addition to the number that would otherwise be permitted for that officer's armed force for officers serving on active duty in grades above brigadier general or rear admiral (lower half) under subsection (a).

(g)(1) The limitations of this section do not apply to a reserve component general or flag officer who is on active duty for a period in excess of 365 days, but not to exceed three years, except that the number of officers from each reserve component who are covered by this subsection and are not serving in a position that is a joint

duty assignment for purposes of chapter 38 of this title may not exceed 5 per component, unless authorized by the Secretary of Defense.

(2) Not later than 30 days after authorizing a number of reserve component general or flag officers in excess of the number specified in paragraph (1), the Secretary of Defense shall notify the Committees on Armed Services of the Senate and the House of Representatives of such authorization, and shall include with such notice a statement of the reason for such authorization.

(Added Pub. L. 96-513, title I, §103, Dec. 12, 1980, 94 Stat. 2844; amended Pub. L. 97-86, title IV, §405(b)(1), Dec. 1, 1981, 95 Stat. 1105; Pub. L. 99-145, title V, §514(b)(1), Nov. 8, 1985, 99 Stat. 628; Pub. L. 99-433, title II, §202(a), Oct. 1, 1986, 100 Stat. 1010; Pub. L. 100-180, div. A, title V, §511(a), Dec. 4, 1987, 101 Stat. 1088; Pub. L. 101-510, div. A, title IV, §405, Nov. 5, 1990, 104 Stat. 1546; Pub. L. 103-337, div. A, title IV, §405(a), Oct. 5, 1994, 108 Stat. 2744; Pub. L. 104-106, div. A, title IV, §403(a), Feb. 10, 1996, 110 Stat. 286; Pub. L. 104-201, div. A, title IV, §404(b), Sept. 23, 1996, 110 Stat. 2506; Pub. L. 105-261, div. A, title IV, §§404, 406, Oct. 17, 1998, 112 Stat. 1996; Pub. L. 106-65, div. A, title V, §§509(b), (c), 532(b), Oct. 5, 1999, 113 Stat. 592, 604; Pub. L. 106-398, §1 [[div. A], title V, §507(g)], Oct. 30, 2000, 114 Stat. 1654, 1654A-105; Pub. L. 107-314, div. A, title IV, §§404(a), (b), 405(b), Dec. 2, 2002, 116 Stat. 2525, 2526; Pub. L. 108-136, div. A, title V, §504(b), Nov. 24, 2003, 117 Stat. 1456; Pub. L. 109-163, div. A, title V, §503(a), Jan. 6, 2006, 119 Stat. 3226; Pub. L. 109-364, div. A, title V, §507(b), Oct. 17, 2006, 120 Stat. 2180; Pub. L. 110-181, div. A, title V, §§501(b), 543(d), Jan. 28, 2008, 122 Stat. 94, 115; Pub. L. 110-417, [div. A], title V, §§503(d), 504(b), Oct. 14, 2008, 122 Stat. 4433, 4434; Pub. L. 111-84, div. A, title V, §502(b)-(d), Oct. 28, 2009, 123 Stat. 2273-2275; Pub. L. 111-383, div. A, title X, §1075(b)(12), (d)(2), Jan. 7, 2011, 124 Stat. 4369, 4372; Pub. L. 112-81, div. A, title V, §§502(a)(1), (b)(2), 511(a)(3), Dec. 31, 2011, 125 Stat. 1386, 1387, 1391.)

AMENDMENT OF SUBSECTION (a)

Pub. L. 112-81, div. A, title V, §502(b)(2), (3), Dec. 31, 2011, 125 Stat. 1387, provided that, effective Oct. 1, 2013, subsection (a) of this section is amended:

(1) in paragraph (1)(B), by striking “45” and inserting “46”;

(2) in paragraph (2)(B), by striking “43” and inserting “44”;

(3) in paragraph (3)(B), by striking “32” and inserting “33”; and

(4) in paragraph (4)(C), by striking “22” and inserting “23”.

See 2011 Amendment note below.

AMENDMENTS

2011—Subsec. (a). Pub. L. 112-81, §502(b)(2), substituted “46” for “45” in par. (1)(B), “44” for “43” in par. (2)(B), “33” for “32” in par. (3)(B), and “23” for “22” in par. (4)(C).

Subsec. (b). Pub. L. 112-81, §502(a)(1), amended subsec. (b) generally. Prior to amendment, subsec. (b) related to exclusions from limitations on appointment of general officers on active duty in the Army, Air Force, and Marine Corps and flag officers on active duty in the Navy.

Subsec. (b)(1)(D). Pub. L. 112-81, §511(a)(3)(A), struck out subpar. (D) which read as follows: “An officer while serving as Chief of the National Guard Bureau.”

Subsec. (c)(3)(B). Pub. L. 111-383, §1075(d)(2), made technical amendment to directory language of Pub. L. 111-84, §502(c)(3). See 2009 Amendment note below.

Subsec. (d). Pub. L. 111-383, §1075(b)(12)(A), substituted “section 601(b)(5)” for “section 601(b)(4)”.

Subsec. (g)(1). Pub. L. 111-383, §1075(b)(12)(B), substituted “and are not” for “and is not” and inserted period at end.

Subsec. (g)(2), (3). Pub. L. 112-81, §511(a)(3)(B), redesignated par. (3) as (2) and struck out former par. (2) which read as follows: “The exception in paragraph (1) does apply to the position of Chief of the National Guard Bureau.”

2009—Subsecs. (a), (b). Pub. L. 111-84, §502(b), added subsecs. (a) and (b) and struck out former subsecs. (a) and (b) which related to limitations on appointments in a grade above brigadier general in the Army, Air Force, or Marine Corps or in a grade above rear admiral (lower half) in the Navy and limitations on appointments in a grade above major general in the Army, Air Force, or Marine Corps or in a grade above rear admiral in the Navy, respectively.

Subsec. (c)(1)(A). Pub. L. 111-84, §502(c)(1)(A), amended subpar. (A) generally. Prior to amendment, subpar. (A) read as follows: “may make appointments in the Army, Air Force, and Marine Corps in the grade of lieutenant general and in the Army and Air Force in the grade of general in excess of the applicable numbers determined under subsection (b)(1), and may make appointments in the Marine Corps in the grade of general in addition to the Commandant and Assistant Commandant, if each such appointment is made in conjunction with an offsetting reduction under paragraph (2); and”.

Subsec. (c)(1)(B). Pub. L. 111-84, §502(c)(1)(B), substituted “this section” for “subsection (b)(2)”.

Subsec. (c)(3)(A). Pub. L. 111-84, §502(c)(2), substituted “15” for “the number equal to 10 percent of the total number of officers that may be serving on active duty in those grades in the Army, Navy, Air Force, and Marine Corps under subsection (b)”.

Subsec. (c)(3)(B). Pub. L. 111-84, §502(c)(3), as amended by Pub. L. 111-383, §1075(d)(2), substituted “5” for “the number equal to 15 percent of the total number of general officers and flag officers that may be serving on active duty in those grades in the Army, Navy, Air Force, and Marine Corps”.

Subsec. (e). Pub. L. 111-84, §502(d)(1), in introductory provisions, substituted “The following officers shall not be counted for purposes of this section:” for “In determining the total number of general officers or flag officers of an armed force on active duty for purposes of this section, the following officers shall not be counted:”.

Subsec. (g). Pub. L. 111-84, §502(d)(2), added subsec. (g).

2008—Subsec. (a). Pub. L. 110-417, §504(b), designated existing provisions as par. (1) and added par. (2).

Pub. L. 110-417, §503(d)(1), substituted “the Army or Air Force, or more than 51 percent of the general officers of the Marine Corps,” for “that armed force”.

Subsec. (b)(1), (2)(A). Pub. L. 110-417, §503(d)(2)(A), substituted “16.4 percent” for “16.3 percent” wherever appearing.

Pub. L. 110-181, §543(d), substituted “16.3 percent” for “15.7 percent” wherever appearing.

Subsec. (b)(2)(B). Pub. L. 110-417, §503(d)(2)(B), substituted “19 percent” for “17.5 percent”.

Subsec. (e)(2). Pub. L. 110-181, §501(b), added par. (2) and struck out former par. (2) which read as follows: “An officer of that armed force who has been relieved from a position designated under section 601(a) of this title and is under orders to assume another such position, but only during the 60-day period beginning on the date on which those orders are published.”

2006—Subsec. (e). Pub. L. 109-163 added subsec. (e).

Subsec. (f). Pub. L. 109-364 added subsec. (f).

2003—Subsec. (b)(5)(C). Pub. L. 108-136 struck out subpar. (C) which read as follows: “This paragraph shall cease to be effective at the end of December 31, 2004.”

2002—Subsec. (b)(2)(B). Pub. L. 107-314, § 404(b), substituted “17.5 percent” for “16.2 percent”.

Subsec. (b)(5)(C). Pub. L. 107-314, § 405(b), substituted “December 31, 2004” for “September 30, 2003”.

Subsec. (b)(8). Pub. L. 107-314, § 404(a), added par. (8).
2000—Subsec. (b)(1). Pub. L. 106-398, § 1 [[div. A], title V, § 507(g)(1)], in first sentence, substituted “Army or Air Force” for “Army, Air Force, or Marine Corps” and “15.7 percent” for “15 percent” and, in second sentence, substituted “Of” for “In the case of the Army and Air Force, of” and “15.7 percent” for “15 percent” and inserted “of the Army or Air Force” after “general officers”.

Subsec. (b)(2). Pub. L. 106-398, § 1 [[div. A], title V, § 507(g)(2)], designated existing provisions as subpar. (A), substituted “15.7 percent” for “15 percent” in two places, and added subpar. (B).

1999—Subsec. (b)(5)(A). Pub. L. 106-65, § 509(c), inserted at end “Any increase by reason of the preceding sentence in the number of officers of an armed force serving on active duty in grades above major general or rear admiral may only be realized by an increase in the number of lieutenant generals or vice admirals, as the case may be, serving on active duty, and any such increase may not be construed as authorizing an increase in the limitation on the total number of general or flag officers for that armed force under section 526(a) of this title or in the number of general and flag officers that may be designated under section 526(b) of this title.”

Subsec. (b)(5)(C). Pub. L. 106-65, § 509(b), substituted “September 30, 2003” for “September 30, 2000”.

Subsec. (b)(7). Pub. L. 106-65, § 532(b), added par. (7).
1998—Subsec. (b)(4)(B). Pub. L. 105-261, § 404, substituted “seven” for “six”.

Subsec. (b)(6). Pub. L. 105-261, § 406, added par. (6).
1996—Subsec. (b)(5)(C). Pub. L. 104-201 substituted “September 30, 2000” for “September 30, 1997”.

Subsec. (d). Pub. L. 104-106 added subsec. (d).
1994—Subsec. (b)(5). Pub. L. 103-337 added par. (5).
1990—Subsec. (b)(3). Pub. L. 101-510, § 405(b), substituted “that would otherwise be permitted for” for “authorized”.

Subsec. (b)(4). Pub. L. 101-510, § 405(a), added par. (4).
1987—Pub. L. 100-180 added subsec. (c).

1986—Subsec. (b)(3). Pub. L. 99-433 inserted “or Vice Chairman”.

1985—Subsec. (a). Pub. L. 99-145 substituted “rear admiral (lower half)” for “commodore” in two places.

1981—Subsec. (a). Pub. L. 97-86 substituted “commodore” for “commodore admiral” in two places.

EFFECTIVE DATE OF 2011 AMENDMENT

Pub. L. 112-81, div. A, title V, § 502(a)(2), Dec. 31, 2011, 125 Stat. 1387, provided that: “The amendment made by paragraph (1) [amending this section] shall take effect on January 1, 2012.”

Pub. L. 112-81, div. A, title V, § 502(b)(3), Dec. 31, 2011, 125 Stat. 1387, provided that: “The amendments made by this subsection [amending this section and section 526 of this title] shall take effect on October 1, 2013.”

Pub. L. 111-383, div. A, title X, § 1075(d), Jan. 7, 2011, 124 Stat. 4372, provided that the amendment by section 1075(d)(2) is effective as of Oct. 28, 2009, and as if included in Pub. L. 111-84 as enacted.

EFFECTIVE DATE OF 2002 AMENDMENT

Pub. L. 107-314, div. A, title IV, § 404(d), Dec. 2, 2002, 116 Stat. 2526, provided that: “The amendment made by subsection (a) [amending this section] shall take effect on the date of the receipt by Congress of the report required by subsection (c) [set out below].”

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97-86 effective Sept. 15, 1981, see section 405(f) of Pub. L. 97-86, set out as a note under section 101 of this title.

IMPLEMENTATION OF 2000 AMENDMENTS

Pub. L. 106-398, § 1 [[div. A], title V, § 507(i)], Oct. 30, 2000, 114 Stat. 1654, 1654A-106, provided that:

“(1) An appointment or reappointment, in the case of the incumbent in a reserve component chief position, shall be made to each of the reserve component chief positions not later than 12 months after the date of the enactment of this Act [Oct. 30, 2000], in accordance with the amendments made by subsections (a) through (e) [amending sections 3038, 5143, 5144, 8038, and 10506 of this title].

“(2) An officer serving in a reserve component chief position on the date of the enactment of this Act [Oct. 30, 2000] may be reappointed to that position under the amendments made by subsection (a) through (e), if eligible and otherwise qualified in accordance with those amendments. If such an officer is so reappointed, the appointment may be made for the remainder of the officer’s original term or for a full new term, as specified at the time of the appointment.

“(3) An officer serving on the date of the enactment of this Act [Oct. 30, 2000] in a reserve component chief position may continue to serve in that position in accordance with the provisions of law in effect immediately before the amendments made by this section [amending this section and sections 3038, 5143, 5144, 8038, and 10506 of this title and repealing section 12505 of this title] until a successor is appointed under paragraph (1) (or that officer is reappointed under paragraph (1)).

“(4) The amendments made by subsection (g) [amending this section] shall be implemented so that each increase authorized by those amendments in the number of officers in the grades of lieutenant general and vice admiral is implemented on a case-by-case basis with an initial appointment made after the date of the enactment of this Act [Oct. 30, 2000], as specified in paragraph (1), to a reserve component chief position.

“(5) For purposes of this subsection, the term ‘reserve component chief position’ means a position specified in section 3038, 5143, 5144, or 8038 of title 10, United States Code, or the position of Director, Army National Guard or Director, Air National Guard under section 10506(a)(1) of such title.”

SAVINGS PROVISION

Section 511(b) of Pub. L. 100-180 provided that: “An officer of the Armed Forces on active duty holding an appointment in the grade of lieutenant general or vice admiral or general or admiral on September 30, 1987, shall not have that appointment terminated by reason of the numerical limitations determined under section 525(b) of title 10, United States Code. In the case of an officer of the Marine Corps serving in the grade of general by reason of an appointment authorized by section 511(3) of the National Defense Authorization Act for Fiscal Year 1987 (Public Law 99-661; 100 Stat. 3869) [see below], that appointment shall not be terminated except as provided in section 601 of title 10, United States Code.”

TRANSFER OF FUNCTIONS

For transfer of authorities, functions, personnel, and assets of the Coast Guard, including the authorities and functions of the Secretary of Transportation relating thereto, to the Department of Homeland Security, and for treatment of related references, see sections 468(b), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

DELAYED AUTHORITY TO ALTER DISTRIBUTION REQUIREMENTS FOR COMMISSIONED OFFICERS ON ACTIVE DUTY IN GENERAL OFFICER AND FLAG OFFICER GRADES AND LIMITATIONS ON AUTHORIZED STRENGTHS OF GENERAL AND FLAG OFFICERS ON ACTIVE DUTY

Pub. L. 110-417, [div. A], title V, § 506, Oct. 14, 2008, 122 Stat. 4434, related to distribution requirements for commissioned officers on active duty in general officer and flag officer grades and limitations on authorized strengths of general and flag officers on active duty, prior to repeal by Pub. L. 111-84, div. A, title V, § 502(j), Oct. 28, 2009, 123 Stat. 2277.

REVIEW OF ACTIVE DUTY AND RESERVE GENERAL AND
FLAG OFFICER AUTHORIZATIONS

Pub. L. 107-314, div. A, title IV, §404(c), Dec. 2, 2002, 116 Stat. 2525, provided that:

“(1) The Secretary of Defense shall submit to Congress a report containing any recommendations of the Secretary (together with the rationale of the Secretary for the recommendations) concerning the following:

“(A) Revision of the limitations on general and flag officer grade authorizations and distribution in grade prescribed by sections 525, 526, and 12004 of title 10, United States Code.

“(B) Statutory designation of the positions and grades of any additional general and flag officers in the commands specified in chapter 1006 of title 10, United States Code, and the reserve component offices specified in sections 3038, 5143, 5144, and 8038 of such title.

“(2) The provisions of subsection (b) through (e) of section 1213 of the National Defense Authorization Act for Fiscal Year 1997 (Public Law 104-201; 110 Stat. 2694) shall apply to the report under paragraph (1) in the same manner as they applied to the report required by subsection (a) of that section.”

REPORT ON MANAGEMENT OF SENIOR GENERAL AND
FLAG OFFICER POSITIONS

Pub. L. 103-337, div. A, title IV, §405(d), Oct. 5, 1994, 108 Stat. 2745, directed the Secretary of Defense to submit to Congress a report on the implementation of the amendments made by Pub. L. 103-337, §405, enacting sections 528 and 604 of this title and amending this section, not later than Mar. 1, 1996.

TEMPORARY EXCLUSION OF SUPERINTENDENT OF NAVAL
ACADEMY FROM COUNTING TOWARD NUMBER OF SENIOR
ADMIRALS AUTHORIZED TO BE ON ACTIVE DUTY

Section 406 of Pub. L. 103-337 provided that: “The officer serving as Superintendent of the United States Naval Academy on the date of the enactment of this Act [Oct. 5, 1994], while so serving, shall not be counted for purposes of the limitations contained in [former] section 525(b)(2) of title 10, United States Code.”

TEMPORARY INCREASE IN NUMBER OF GENERAL AND
FLAG OFFICERS AUTHORIZED TO BE ON ACTIVE DUTY

Temporary increases in the number of officers authorized in particular grades under this section were contained in the following authorization acts:

Pub. L. 99-661, div. A, title V, §511, Nov. 14, 1986, 100 Stat. 3869.

Pub. L. 99-570, title III, §3058, Oct. 27, 1986, 100 Stat. 3207-79.

Pub. L. 99-145, title V, §515, Nov. 8, 1985, 99 Stat. 630.

Pub. L. 98-525, title V, §511, Oct. 19, 1984, 98 Stat. 2521.

Pub. L. 98-94, title X, §1001, Sept. 24, 1983, 97 Stat. 654.

Pub. L. 97-252, title XI, §1116, Sept. 8, 1982, 96 Stat. 750.

§ 526. Authorized strength: general and flag officers on active duty

(a) **LIMITATIONS.**—The number of general officers on active duty in the Army, Air Force, and Marine Corps, and the number of flag officers on active duty in the Navy, may not exceed the number specified for the armed force concerned as follows:

- (1) For the Army, 230.
- (2) For the Navy, 160.
- (3) For the Air Force, 208.
- (4) For the Marine Corps, 60.

(b) **LIMITED EXCLUSION FOR JOINT DUTY REQUIREMENTS.**—(1) The Secretary of Defense may designate up to 310 general officer and flag officer positions that are joint duty assignments for purposes of chapter 38 of this title for exclusion

from the limitations in subsection (a). The Secretary of Defense shall allocate those exclusions to the armed forces based on the number of general or flag officers required from each armed force for assignment to these designated positions.

(2) Unless the Secretary of Defense determines that a lower number is in the best interest of the Department, the minimum number of officers serving in positions designated under paragraph (1) for each armed force shall be as follows:

- (A) For the Army, 85.
- (B) For the Navy, 61.
- (C) For the Air Force, 76.
- (D) For the Marine Corps, 21.

(3) The number excluded under paragraph (1) and serving in positions designated under that paragraph—

- (A) in the grade of general or admiral may not exceed 20;
- (B) in a grade above the grade of major general or rear admiral may not exceed 68; and
- (C) in the grade of major general or rear admiral may not exceed 144.

(4) Not later than 30 days after determining to raise or lower a number specified in paragraph (2), the Secretary of Defense shall notify the Committees on Armed Services of the Senate and the House of Representatives of such determination.

(5)(A) The Chairman of the Joint Chiefs of Staff may designate up to 15 general and flag officer positions in the unified and specified combatant commands, and up to three general and flag officer positions on the Joint Staff, as positions to be held only by reserve component officers who are in a general or flag officer grade below lieutenant general or vice admiral. Each position so designated shall be considered to be a joint duty assignment position for purposes of chapter 38 of this title.

(B) A reserve component officer serving in a position designated under subparagraph (A) while on active duty under a call or order to active duty that does not specify a period of 180 days or less shall not be counted for the purposes of the limitations under subsection (a) and under section 525 of this title if the officer was selected for service in that position in accordance with the procedures specified in subparagraph (C).

(C) Whenever a vacancy occurs, or is anticipated to occur, in a position designated under subparagraph (A)—

(i) the Secretary of Defense shall require the Secretary of the Army to submit the name of at least one Army reserve component officer, the Secretary of the Navy to submit the name of at least one Navy Reserve officer and the name of at least one Marine Corps Reserve officer, and the Secretary of the Air Force to submit the name of at least one Air Force reserve component officer for consideration by the Secretary for assignment to that position; and

(ii) the Chairman of the Joint Chiefs of Staff may submit to the Secretary of Defense the name of one or more officers (in addition to the officers whose names are submitted pursu-

ant to clause (i)) for consideration by the Secretary for assignment to that position.

(D) Whenever the Secretaries of the military departments are required to submit the names of officers under subparagraph (C)(i), the Chairman of the Joint Chiefs of Staff shall submit to the Secretary of Defense the Chairman's evaluation of the performance of each officer whose name is submitted under that subparagraph (and of any officer whose name the Chairman submits to the Secretary under subparagraph (C)(ii) for consideration for the same vacancy).

(E) Subparagraph (B) does not apply in the case of an officer serving in a position designated under subparagraph (A) if the Secretary of Defense, when considering officers for assignment to fill the vacancy in that position which was filled by that officer, did not have a recommendation for that assignment from each Secretary of a military department who (pursuant to subparagraph (C)) was required to make such a recommendation.

[(c) Repealed. Pub. L. 107-314, div. A, title X, § 1041(a)(3), Dec. 2, 2002, 116 Stat. 2645.]

(d) EXCLUSION OF CERTAIN RESERVE OFFICERS.—(1) The limitations of this section do not apply to a reserve component general or flag officer who is on active duty for training or who is on active duty under a call or order specifying a period of less than 180 days.

(2) The limitations of this section also do not apply to a number, as specified by the Secretary of the military department concerned, of reserve component general or flag officers authorized to serve on active duty for a period of not more than 365 days. The number so specified for an armed force may not exceed the number equal to 10 percent of the authorized number of general or flag officers, as the case may be, of that armed force under section 12004 of this title. In determining such number, any fraction shall be rounded down to the next whole number, except that such number shall be at least one.

(3) The limitations of this section do not apply to a reserve component general or flag officer who is on active duty for a period in excess of 365 days but not to exceed three years, except that the number of such officers from each reserve component who are covered by this paragraph and not serving in a position that is a joint duty assignment for purposes of chapter 38 of this title may not exceed 5 per component, unless authorized by the Secretary of Defense.

(e) EXCLUSION OF CERTAIN OFFICERS PENDING SEPARATION OR RETIREMENT OR BETWEEN SENIOR POSITIONS.—The limitations of this section do not apply to a general or flag officer who is covered by an exclusion under section 525(e) of this title.

(f) EXCLUSION OF ATTENDING PHYSICIAN TO THE CONGRESS.—The limitations of this section do not apply to the general or flag officer who is serving as Attending Physician to the Congress.

(g) TEMPORARY EXCLUSION FOR ASSIGNMENT TO CERTAIN TEMPORARY BILLETS.—(1) The limitations in subsection (a) and in section 525(a) of this title do not apply to a general or flag officer assigned to a temporary joint duty assignment designated by the Secretary of Defense.

(2) A general or flag officer assigned to a temporary joint duty assignment as described in

paragraph (1) may not be excluded under this subsection from the limitations in subsection (a) for a period of longer than one year.

(h) EXCLUSION OF OFFICERS DEPARTING FROM JOINT DUTY ASSIGNMENTS.—The limitations in subsection (a) do not apply to an officer released from a joint duty assignment, but only during the 60-day period beginning on the date the officer departs the joint duty assignment. The Secretary of Defense may authorize the Secretary of a military department to extend the 60-day period by an additional 120 days, except that not more than three officers on active duty from each armed force may be covered by an extension under this sentence at the same time.

(Added Pub. L. 100-370, §1(b)(1)(B), July 19, 1988, 102 Stat. 840; amended Pub. L. 101-510, div. A, title IV, §403(a), Nov. 5, 1990, 104 Stat. 1545; Pub. L. 102-484, div. A, title IV, §403, Oct. 23, 1992, 106 Stat. 2398; Pub. L. 103-337, div. A, title IV, §404, title V, §512, Oct. 5, 1994, 108 Stat. 2744, 2752; Pub. L. 104-106, div. A, title XV, §§1502(a)(1), 1503(a)(3), Feb. 10, 1996, 110 Stat. 502, 510; Pub. L. 104-201, div. A, title IV, §405, Sept. 23, 1996, 110 Stat. 2506; Pub. L. 105-261, div. A, title IV, §405, Oct. 17, 1998, 112 Stat. 1996; Pub. L. 106-65, div. A, title V, §553, title X, §1067(1), Oct. 5, 1999, 113 Stat. 615, 774; Pub. L. 107-314, div. A, title IV, §405(c), title X, §1041(a)(3), Dec. 2, 2002, 116 Stat. 2526, 2645; Pub. L. 108-136, div. A, title V, §504(c), Nov. 24, 2003, 117 Stat. 1457; Pub. L. 109-163, div. A, title V, §§503(b), 510, 515(b)(1)(C), Jan. 6, 2006, 119 Stat. 3226, 3231, 3233; Pub. L. 109-364, div. A, title V, §507(c), Oct. 17, 2006, 120 Stat. 2180; Pub. L. 110-181, div. A, title V, §502, title XVIII, §1824(c), Jan. 28, 2008, 122 Stat. 95, 501; Pub. L. 110-417, [div. A], title V, §§503(a)-(c), 525, Oct. 14, 2008, 122 Stat. 4433, 4448; Pub. L. 111-84, div. A, title V, §502(e)-(g), Oct. 28, 2009, 123 Stat. 2275, 2276; Pub. L. 112-81, div. A, title V, §502(b)(1), (c)(1), Dec. 31, 2011, 125 Stat. 1387.)

AMENDMENT OF SUBSECTIONS (a) AND (b)(2)(C)

Pub. L. 112-81, div. A, title V, §502(b)(1), (3), Dec. 31, 2011, 125 Stat. 1387, provided that effective Oct. 1, 2013, this section is amended:

(1) in subsection (a)—

(A) in paragraph (1), by striking “230” and inserting “231”;

(B) in paragraph (2), by striking “160” and inserting “161”;

(C) in paragraph (3), by striking “208” and inserting “198”;

(D) in paragraph (4), by striking “60” and inserting “61”; and

(2) in subsection (b)(2)(C), by striking “76” and inserting “73”.

See 2011 Amendment notes below.

HISTORICAL AND REVISION NOTES

Section is based on Pub. L. 95-79, title VIII, §811(a), July 30, 1977, 91 Stat. 335, as amended by Pub. L. 96-107, title VIII, §817, Nov. 9, 1979, 93 Stat. 818; Pub. L. 96-342, title X, §1003, Sept. 8, 1980, 94 Stat. 1120; Pub. L. 97-86, title VI, §602, Dec. 1, 1981, 95 Stat. 1110.

Present law (section 811(a) of Public Law 95-79, as amended) provides that the authority to suspend the limitation on the number of general and flag officers who may be serving on active duty applies during war or national emergency. In codifying the limitation (in section 526 of title 10 as proposed to be added by section 1(b) of the bill), the committee determined that the

same war and emergency waiver authority as applies to other limitations on the number of officers on active duty under the existing 10 U.S.C. 526 (redesignated as 10 U.S.C. 527 by the bill) should apply with respect to this limitation and accordingly amended the suspension authority in present law to include the codified general and flag officer limitation. This authority is slightly different from the waiver authority in the source law in that the suspension would expire 2 years after it takes effect or 1 year after the end of the war or national emergency, whichever occurs first, rather than upon termination of the war or emergency.

PRIOR PROVISIONS

A prior section 526 was renumbered section 527 of this title.

AMENDMENTS

2011—Subsec. (a). Pub. L. 112-81, § 502(b)(1)(A), substituted “231” for “230” in par. (1), “161” for “160” in par. (2), “198” for “208” in par. (3), and “61” for “60” in par. (4).

Subsec. (b)(1). Pub. L. 112-81, § 502(c)(1), substituted “310” for “324”.

Subsec. (b)(2)(C). Pub. L. 112-81, § 502(b)(1)(B), substituted “73” for “76”.

2009—Subsec. (a). Pub. L. 111-84, § 502(e), substituted “230” for “307” in par. (1), “160” for “216” in par. (2), “208” for “279” in par. (3), and “60” for “81” in par. (4).

Subsec. (b)(1). Pub. L. 111-84, § 502(f)(1), substituted “Secretary of Defense” for “Chairman of the Joint Chiefs of Staff”, “324” for “65”, and “The Secretary of Defense shall allocate those exclusions to the armed forces based on the number of general or flag officers required from each armed force for assignment to these designated positions.” for “Officers in positions so designated shall not be counted for the purposes of those limitations.”

Subsec. (b)(2) to (5). Pub. L. 111-84, § 502(f)(2), (3), added pars. (2) to (4) and redesignated former par. (2) as (5).

Subsec. (d)(3). Pub. L. 111-84, § 502(g)(1), added par. (3).

Subsecs. (g), (h). Pub. L. 111-84, § 502(g)(2), added subsecs. (g) and (h).

2008—Subsec. (a)(1). Pub. L. 110-417, § 503(a), substituted “307” for “302”.

Subsec. (a)(4). Pub. L. 110-417, § 503(b), substituted “81” for “80”.

Subsec. (b)(1). Pub. L. 110-417, § 503(c), substituted “65” for “12”.

Subsec. (b)(2)(A). Pub. L. 110-417, § 525, substituted “up to three general and flag officer positions” for “a general and flag officer position”.

Pub. L. 110-181, § 1824(c), substituted “15 general and flag officer positions in” for “10 general and flag officer positions on the staffs of the commanders of”.

Subsec. (d). Pub. L. 110-181, § 502, designated existing provisions as par. (1) and added par. (2).

2006—Subsec. (b)(2)(A). Pub. L. 109-163, § 510, inserted “, and a general and flag officer position on the Joint Staff,” after “combatant commands”.

Subsec. (b)(2)(C)(i). Pub. L. 109-163, § 515(b)(1)(C), substituted “Navy Reserve” for “Naval Reserve”.

Subsec. (d). Pub. L. 109-163, § 503(b)(2), substituted “Certain Reserve Officers” for “Certain Officers” in heading.

Subsec. (e). Pub. L. 109-163, § 503(b)(1), added subsec. (e).

Subsec. (f). Pub. L. 109-364 added subsec. (f).

2003—Subsec. (b)(3). Pub. L. 108-136 struck out par. (3) which read as follows: “This subsection shall cease to be effective on December 31, 2004.”

2002—Subsec. (b)(3). Pub. L. 107-314, § 405(c), substituted “December 31, 2004” for “October 1, 2002”.

Subsec. (c). Pub. L. 107-314, § 1041(a)(3), struck out heading and text of subsec. (c). Text read as follows:

“(1) Not later than 60 days before an action specified in paragraph (2) may become effective, the Secretary of Defense shall submit to the Committee on Armed Serv-

ices of the Senate and the Committee on Armed Services of the House of Representatives a report providing notice of the intended action and an analytically based justification for the intended action.

“(2) Paragraph (1) applies in the case of the following actions:

“(A) A change in the grade authorized as of July 1, 1994, for a general officer position in the National Guard Bureau, a general or flag officer position in the Office of a Chief of a reserve component, or a general or flag officer position in the headquarters of a reserve component command.

“(B) Assignment of a reserve component officer to a general officer position in the National Guard Bureau, to a general or flag officer position in the Office of a Chief of a reserve component, or to a general or flag officer position in the headquarters of a reserve component command in a grade other than the grade authorized for that position as of July 1, 1994.

“(C) Assignment of an officer other than a general or flag officer as the military executive to the Reserve Forces Policy Board.”

1999—Subsec. (b)(2), (3). Pub. L. 106-65, § 553, added par. (2) and redesignated former par. (2) as (3).

Subsec. (c)(1). Pub. L. 106-65, § 1067(1), substituted “and the Committee on Armed Services” for “and the Committee on National Security”.

1998—Subsec. (b)(2). Pub. L. 105-261 substituted “October 1, 2002” for “October 1, 1998”.

1996—Subsec. (a)(1) to (3). Pub. L. 104-106, § 1503(a)(3)(A), added pars. (1) to (3) and struck out former pars. (1) to (3) which read as follows:

“(1) For the Army, 386 before October 1, 1995, and 302 on and after that date.

“(2) For the Navy, 250 before October 1, 1995, and 216 on and after that date.

“(3) For the Air Force, 326 before October 1, 1995, and 279 on and after that date.”

Subsec. (a)(4). Pub. L. 104-201 substituted “80” for “68”.

Subsec. (b). Pub. L. 104-106, § 1503(a)(3)(B)–(D), redesignated subsec. (c) as (b), struck out “that are applicable on and after October 1, 1995” after “limitations in subsection (a)”, and struck out former subsec. (b) which read as follows: “TRANSFERS BETWEEN SERVICES.—During the period before October 1, 1995, the Secretary of Defense may increase the number of general officers on active duty in the Army, Air Force, or Marine Corps, or the number of flag officers on active duty in the Navy, above the applicable number specified in subsection (a) by a total of not more than five. Whenever any such increase is made, the Secretary shall make a corresponding reduction in the number of such officers that may serve on active duty in general or flag officer grades in one of the other armed forces.”

Subsec. (c). Pub. L. 104-106, § 1503(a)(3)(C), (E), redesignated subsec. (d) as (c) and, in par. (2)(B), struck out “the” after “general officer position in the” and inserted “to” after “reserve component, or” and “than” after “in a grade other”. Former subsec. (c) redesignated (b).

Subsec. (d). Pub. L. 104-106, § 1503(a)(3)(C), redesignated subsec. (e) as (d). Former subsec. (d) redesignated (c).

Subsec. (d)(1). Pub. L. 104-106, § 1502(a)(1), substituted “Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives” for “Committees on Armed Services of the Senate and House of Representatives”.

Subsec. (e). Pub. L. 104-106, § 1503(a)(3)(C), redesignated subsec. (e) as (d).

1994—Subsec. (a)(4). Pub. L. 103-337, § 404, struck out “before October 1, 1995, and 61 on and after that date” after “Corps, 68”.

Subsecs. (d), (e). Pub. L. 103-337, § 512, added subsecs. (d) and (e).

1992—Subsec. (b). Pub. L. 102-484, § 403(b), inserted heading.

Subsec. (c). Pub. L. 102-484, § 403(a), added subsec. (c).

1990—Pub. L. 101-510 amended section generally. Prior to amendment, text read as follows: “The total number

of general officers on active duty in the Army, Air Force, and Marine Corps and flag officers on active duty in the Navy may not exceed 1,073.”

EFFECTIVE DATE OF 2011 AMENDMENT

Amendment by section 502(b)(1) of Pub. L. 112-81 effective Oct. 1, 2013, see section 502(b)(3) of Pub. L. 112-81, set out as a note under section 525 of this title.

Pub. L. 112-81, div. A, title V, § 502(c)(2), Dec. 31, 2011, 125 Stat. 1387, provided that: “The amendment made by paragraph (1) [amending this section] shall take effect on January 1, 2012.”

EFFECTIVE DATE OF 1990 AMENDMENT

Section 403(a) of Pub. L. 101-510 provided that the amendment made by that section is effective Sept. 30, 1991.

ACQUISITION AND CONTRACTING BILLETS

Pub. L. 110-417, [div. A], title V, § 503(e), Oct. 14, 2008, 122 Stat. 4434, provided that:

“(1) RESERVATION OF ARMY INCREASE.—The increase in the number of general officers on active duty in the Army, as authorized by the amendment made by subsection (a) [amending this section] is reserved for general officers in the Army who serve in an acquisition position.

“(2) RESERVATION OF PORTION OF INCREASE IN JOINT DUTY ASSIGNMENTS EXCLUDED FROM LIMITATION.—Of the increase in the number of general officer and flag officer joint duty assignments that may be designated for exclusion from the limitations on the number of general officers and flag officers on active duty, as authorized by the amendment made by subsection (c) [amending this section], five of the designated assignments are reserved for general officers or flag officers who serve in an acquisition position, including one assignment in the Defense Contract Management Agency.”

§ 527. Authority to suspend sections 523, 525, and 526

In time of war, or of national emergency declared by Congress or the President after November 30, 1980, the President may suspend the operation of any provision of section 523, 525, or 526 of this title. So long as such war or national emergency continues, any such suspension may be extended by the President. Any such suspension shall, if not sooner ended, end on the last day of the two-year period beginning on the date on which the suspension (or the last extension thereof) takes effect or on the last day of the one-year period beginning on the date of the termination of the war or national emergency, whichever occurs first. With respect to the end of any such suspension, the preceding sentence supersedes the provisions of title II of the National Emergencies Act (50 U.S.C. 1621-1622) which provide that powers or authorities exercised by reason of a national emergency shall cease to be exercised after the date of the termination of the emergency.

(Added Pub. L. 96-513, title I, § 103, Dec. 12, 1980, 94 Stat. 2845, § 526; renumbered § 527 and amended Pub. L. 100-370, § 1(b)(1)(A), (2), July 19, 1988, 102 Stat. 840; Pub. L. 103-337, div. A, title XVI, § 1671(c)(4), Oct. 5, 1994, 108 Stat. 3014.)

REFERENCES IN TEXT

The National Emergencies Act, referred to in text, is Pub. L. 94-412, Sept. 14, 1976, 90 Stat. 1255, as amended. Title II of the National Emergencies Act is classified generally to subchapter II (§ 1621 et seq.) of chapter 34 of Title 50, War and National Defense. For complete

classification of this Act to the Code, see Short Title note set out under section 1601 of Title 50 and Tables.

AMENDMENTS

1994—Pub. L. 103-337 struck out “524,” after “523,” in section catchline and in text.

1988—Pub. L. 100-370 renumbered section 526 of this title as this section, substituted “524, 525, and 526” for “524, and 525” in section catchline, and “524, 525, or 526” for “524, or 525” in text.

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103-337 effective Dec. 1, 1994, except as otherwise provided, see section 1691 of Pub. L. 103-337, set out as an Effective Date note under section 10001 of this title.

DELEGATION OF FUNCTIONS

Functions of President under this section to suspend operation of sections 523, 524 [now 12011], and 525 of this title, relating to authorized strength of commissioned officers, delegated to Secretary of Defense to perform during a time of war or national emergency, without approval, ratification, or other action by President, and with authority for Secretary to redelegate, provided that, during a national emergency declared by President, the exercise of any such authority be specifically directed by President in accordance with section 1631 of Title 50, War and National Defense, and that Secretary ensure that actions taken pursuant to any authority so delegated be accounted for as required by section 1641 of Title 50, see Ex. Ord. No. 12396, §§ 2, 3, Dec. 9, 1982, 47 F.R. 55897, 55898, set out as a note under section 301 of Title 3, The President.

DELEGATION OF AUTHORITY

Authority of President under this section as invoked by sections 2 and 3 of Ex. Ord. No. 13223, Sept. 14, 2001, 66 F.R. 48201, as amended, delegated to Secretary of Defense by section 4 of Ex. Ord. No. 13223, set out as a note under section 12302 of this title.

AUTHORITY TO WAIVE GRADE STRENGTH LAWS FOR FISCAL YEAR 1991; CERTIFICATION; RELATIONSHIP TO OTHER SUSPENSION AUTHORITY

Pub. L. 102-25, title II, §§ 201(b), 202, 205(b), Apr. 6, 1991, 105 Stat. 79, 80, authorized Secretary of a military department to suspend, for fiscal year 1991, the operation of any provision of section 517, 523, 524, 525, or 526 of this title with respect to that military department, that such Secretary may exercise such authority only after submission to the congressional defense committees of a certification in writing that such authority is necessary because of personnel actions associated with Operation Desert Storm, and that such authority is in addition to the authority provided in this section.

§ 528. Officers serving in certain intelligence positions; military status; application of distribution and strength limitations; pay and allowances

(a) MILITARY STATUS.—An officer of the armed forces, while serving in a position covered by this section—

(1) shall not be subject to supervision or control by the Secretary of Defense or any other officer or employee of the Department of Defense, except as directed by the Secretary of Defense concerning reassignment from such position; and

(2) may not exercise, by reason of the officer's status as an officer, any supervision or control with respect to any of the military or civilian personnel of the Department of Defense except as otherwise authorized by law.

(b) DIRECTOR AND DEPUTY DIRECTOR OF CIA.—When the position of Director or Deputy Direc-

tor of the Central Intelligence Agency is held by an officer of the armed forces, the position, so long as the officer serves in the position, shall be designated, pursuant to subsection (b) of section 526 of this title, as one of the general officer and flag officer positions to be excluded from the limitations in subsection (a) of such section.

(c) ASSOCIATE DIRECTOR OF MILITARY AFFAIRS, CIA.—When the position of Associate Director of Military Affairs, Central Intelligence Agency, or any successor position, is held by an officer of the armed forces, the position, so long as the officer serves in the position, shall be designated, pursuant to subsection (b) of section 526 of this title, as one of the general officer and flag officer positions to be excluded from the limitations in subsection (a) of such section.

(d) OFFICERS SERVING IN OFFICE OF DNI.—When a position in the Office of the Director of National Intelligence designated by agreement between the Secretary of Defense and the Director of National Intelligence is held by a general officer or flag officer of the armed forces, the position, so long as the officer serves in the position, shall be designated, pursuant to subsection (b) of section 526 of this title, as one of the general officer and flag officer positions to be excluded from the limitations in subsection (a) of such section. However, not more than five of such positions may be included among the excluded positions at any time.

(e) EFFECT OF APPOINTMENT.—Except as provided in subsection (a), the appointment or assignment of an officer of the armed forces to a position covered by this section shall not affect—

- (1) the status, position, rank, or grade of such officer in the armed forces; or
- (2) any emolument, perquisite, right, privilege, or benefit incident to or arising out of such status, position, rank, or grade.

(f) MILITARY PAY AND ALLOWANCES.—(1) An officer of the armed forces on active duty who is appointed or assigned to a position covered by this section shall, while serving in such position and while remaining on active duty, continue to receive military pay and allowances and shall not receive the pay prescribed for such position.

(2) Funds from which pay and allowances under paragraph (1) are paid to an officer while so serving shall be reimbursed as follows:

(A) For an officer serving in a position within the Central Intelligence Agency, such reimbursement shall be made from funds available to the Director of the Central Intelligence Agency.

(B) For an officer serving in a position within the Office of the Director of National Intelligence, such reimbursement shall be made from funds available to the Director of National Intelligence.

(g) COVERED POSITIONS.—The positions covered by this section are the positions specified in subsections (b) and (c) and the positions designated under subsection (d).

(Added Pub. L. 108-136, div. A, title V, § 507(a), Nov. 24, 2003, 117 Stat. 1458; amended Pub. L. 109-163, div. A, title V, § 507(a), Jan. 6, 2006, 119 Stat. 3228; Pub. L. 109-364, div. A, title V, § 501(a), (b)(1), Oct. 17, 2006, 120 Stat. 2175, 2176; Pub. L.

110-417, [div. A], title IX, § 933, Oct. 14, 2008, 122 Stat. 4576; Pub. L. 111-259, title VIII, § 803, Oct. 7, 2010, 124 Stat. 2746; Pub. L. 112-81, div. A, title V, § 502(d)(1), (2)(A), Dec. 31, 2011, 125 Stat. 1387, 1388.)

PRIOR PROVISIONS

A prior section 528, added Pub. L. 103-337, div. A, title IV, § 405(b)(1), Oct. 5, 1994, 108 Stat. 2744; amended Pub. L. 104-106, div. A, title IV, § 403(b), title XV, § 1503(a)(4), Feb. 10, 1996, 110 Stat. 287, 511; Pub. L. 104-201, div. A, title X, § 1074(a)(3), Sept. 23, 1996, 110 Stat. 2658, which related to limitation on number of officers on active duty in grades of general and admiral, was repealed by Pub. L. 107-107, div. A, title V, § 501(a), Dec. 28, 2001, 115 Stat. 1079.

AMENDMENTS

2011—Pub. L. 112-81, § 502(d)(2)(A), substituted “Officers serving in certain intelligence positions: military status; application of distribution and strength limitations; pay and allowances” for “Officers serving in certain intelligence positions: military status; exclusion from distribution and strength limitations; pay and allowances” in section catchline.

Subsecs. (b) to (d). Pub. L. 112-81, § 502(d)(1), added subsecs. (b) to (d) and struck out former subsecs. (b) to (d) which related to Director and Deputy Director of CIA, Associate Director of Military Affairs of CIA, and Officers Serving in the Office of DNI, respectively.

2010—Subsec. (c). Pub. L. 111-259 substituted “Associate Director of Military Affairs, CIA” for “Associate Director of CIA for Military Affairs” in heading and “Associate Director of Military Affairs, Central Intelligence Agency, or any successor position” for “Associate Director of the Central Intelligence Agency for Military Affairs” in text.

2008—Subsec. (c). Pub. L. 110-417 substituted “Military Affairs” for “Military Support” in heading and text.

2006—Pub. L. 109-364, § 501(b)(1), amended section catchline generally, substituting “Officers serving in certain intelligence positions: military status; exclusion from distribution and strength limitations; pay and allowances” for “Exclusion: officers serving in certain intelligence positions”.

Pub. L. 109-163 amended section catchline and text generally. Prior to amendment, text read as follows:

“(a) When none of the individuals serving in a position specified in subsection (b) is an officer of the armed forces, an officer of the armed forces assigned to the position of Associate Director of Central Intelligence for Military Support, while serving in that position, shall not be counted against the numbers and percentages of officers of the grade of that officer authorized for that officer’s armed force.

“(b) The positions referred to in subsection (a) are the following:

- “(1) Director of Central Intelligence.
- “(2) Deputy Director of Central Intelligence.
- “(3) Deputy Director of Central Intelligence for Community Management.”

Subsecs. (a), (b). Pub. L. 109-364, § 501(a)(1), added subsecs. (a) and (b) and struck out former subsecs. (a) and (b) which read as follows:

“(a) EXCLUSION OF OFFICER SERVING IN CERTAIN CIA POSITIONS.—When either of the individuals serving in a position specified in subsection (b) is an officer of the armed forces, one of those officers, while serving in that position, shall be excluded from the limitations in sections 525 and 526 of this title.

“(b) COVERED POSITIONS.—The positions referred to in this subsection are the following:

- “(1) Director of the Central Intelligence Agency.
- “(2) Deputy Director of the Central Intelligence Agency.”

Subsecs. (e) to (g). Pub. L. 109-364, § 501(a)(2), added subsecs. (e) to (g).

**CHAPTER 33—ORIGINAL APPOINTMENTS OF
REGULAR OFFICERS IN GRADES ABOVE
WARRANT OFFICER GRADES**

- Sec.
531. Original appointments of commissioned officers.
532. Qualifications for original appointment as a commissioned officer.
533. Service credit upon original appointment as a commissioned officer.
541. Graduates of the United States Military, Naval, and Air Force Academies.
[555 to 565. Repealed.]

AMENDMENTS

1991—Pub. L. 102-190, div. A, title XI, §1112(b)(1), Dec. 5, 1991, 105 Stat. 1501, substituted “ORIGINAL APPOINTMENTS OF REGULAR OFFICERS IN GRADES ABOVE WARRANT OFFICER GRADES” for “APPOINTMENTS IN REGULAR COMPONENTS” as chapter heading, struck out analysis of subchapters listing subchapter I “Original Appointments of Regular Officers in Grades above Warrant Officer Grades” and subchapter II “Appointments of Regular Warrant Officers”, and struck out subchapter I heading.

1980—Pub. L. 96-513, title I, §104(a), Dec. 12, 1980, 94 Stat. 2845, inserted an analysis of subchapters immediately following chapter heading, added subchapter I heading, and, in analysis of sections following subchapter I heading, added items 531, 532, and 533 preceding item 541, re-enacted item 541 without change, and struck out, following item 541, items 555 to 565. The items 555 to 565 formerly set out in the analysis of sections immediately following chapter heading were transferred to a position following a new heading for subchapter II preceding section 555.

§ 531. Original appointments of commissioned officers

(a)(1) Original appointments in the grades of second lieutenant, first lieutenant, and captain in the Regular Army, Regular Air Force, and Regular Marine Corps and in the grades of ensign, lieutenant (junior grade), and lieutenant in the Regular Navy shall be made by the President alone.

(2) Original appointments in the grades of major, lieutenant colonel, and colonel in the Regular Army, Regular Air Force, and Regular Marine Corps and in the grades of lieutenant commander, commander, and captain in the Regular Navy shall be made by the President, by and with the advice and consent of the Senate.

(b) The grade of a person receiving an appointment under this section who at the time of appointment (1) is credited with service under section 533 of this title, and (2) is not a commissioned officer of a reserve component shall be determined under regulations prescribed by the Secretary of Defense based upon the amount of service credited. The grade of a person receiving an appointment under this section who at the time of the appointment is a commissioned officer of a reserve component is determined under section 533(f) of this title.

(c) Subject to the authority, direction, and control of the President, an original appointment as a commissioned officer in the Regular Army, Regular Air Force, Regular Navy, or Regular Marine Corps may be made by the Secretary concerned in the case of a reserve commissioned officer upon the transfer of such officer from the reserve active-status list of a re-

serve component of the armed forces to the active-duty list of an armed force, notwithstanding the requirements of subsection (a).

(Added Pub. L. 96-513, title I, §104(a), Dec. 12, 1980, 94 Stat. 2845; amended Pub. L. 97-22, §3(a), July 10, 1981, 95 Stat. 124; Pub. L. 108-375, div. A, title V, §501(a)(4), (c)(5), Oct. 28, 2004, 118 Stat. 1873, 1874.)

AMENDMENTS

2004—Subsec. (a). Pub. L. 108-375, §501(a)(4), amended subsec. (a) generally. Prior to amendment, subsec. (a) read as follows: “Original appointments in the grades of second lieutenant through colonel in the Regular Army, Regular Air Force, and Regular Marine Corps and in the grades of ensign through captain in the Regular Navy shall be made by the President, by and with the advice and consent of the Senate.”

Subsec. (c). Pub. L. 108-375, §501(c)(5), added subsec. (c).

1981—Pub. L. 97-22 designated existing provisions as subsec. (a) and added subsec. (b).

EFFECTIVE DATE OF 2004 AMENDMENT

Pub. L. 108-375, div. A, title V, §501(g), Oct. 28, 2004, 118 Stat. 1875, provided that:

“(1) Except as provided in paragraph (2), the amendments made by this section [enacting section 647 of this title, amending this section and sections 532, 619, 641, 1174, 2114, 12201, 12203, and 12731 of this title, and repealing section 522 of this title] shall take effect on the first day of the first month beginning more than 180 days after the date of the enactment of this Act [Oct. 28, 2004].

“(2) The amendment made by subsection (a)(1) [amending section 532 of this title] shall take effect on May 1, 2005.”

EFFECTIVE DATE

Chapter effective Sept. 15, 1981, but the authority to prescribe regulations under this chapter effective on Dec. 12, 1980, see section 701 of Pub. L. 96-513, set out as an Effective Date of 1980 Amendment note under section 101 of this title.

TRANSITION PROVISIONS UNDER DEFENSE OFFICER
PERSONNEL MANAGEMENT ACT

For provisions to prevent extinction or premature termination of rights, duties, penalties, or proceedings that existed or were begun prior to the effective date of Pub. L. 96-513 and otherwise to allow for an orderly transition to the system of officer personnel management put in place under Pub. L. 96-513, see section 601 et seq. of Pub. L. 96-513, set out as a note under section 611 of this title.

PROGRAM TO INCREASE USE OF CERTAIN NURSES BY
MILITARY DEPARTMENTS

Pub. L. 101-189, div. A, title VII, §708, Nov. 29, 1989, 103 Stat. 1475, provided that:

“(a) PROGRAM REQUIRED.—(1) Not later than September 30, 1991, the Secretary of each military department shall implement a program to appoint persons who have an associate degree or diploma in nursing (but have not received a baccalaureate degree in nursing) as officers and to assign such officers to duty as nurses.

“(2) An officer appointed pursuant to the program required by subsection (a) shall be appointed in a warrant officer grade or in a commissioned grade not higher than O-3. Such officer may not be promoted above the grade of O-3 unless the officer receives a baccalaureate degree in nursing.

“(b) REPORT ON IMPLEMENTATION.—Not later than April 1, 1990, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives a report on the actions taken by the Secretaries of the military departments to implement the program required by this section.”