

Pub. L. 101-510, div. A, title XIV, §1409, Nov. 5, 1990, 104 Stat. 1681.

BUDGET ACT LIMITATION

Section 1304(b) of Pub. L. 99-661 provided that: “New spending authority (as defined in section 401(c)(2) of the Congressional Budget Act of 1974 [2 U.S.C. 651(c)(2)]) provided by the amendment made by subsection (a) [amending this section] shall be effective for any fiscal year only to the extent or in such amounts as are provided in appropriation Acts.”

LIMITATION ON SOURCE OF FUNDS FOR NICARAGUAN DEMOCRATIC RESISTANCE

Section 1351 of Pub. L. 99-661, as amended by Pub. L. 104-106, div. A, title X, §1063(a), Feb. 10, 1996, 110 Stat. 444, provided that: “Notwithstanding title II of the Military Construction Appropriations Act, 1987 [Pub. L. 99-500, §101(k) [title II], Oct. 18, 1986, 100 Stat. 1783-287, 1783-295, and Pub. L. 99-591, §101(k) [title II], Oct. 30, 1986, 100 Stat. 3341-287, 3341-295], or any other provision of law, funds appropriated or otherwise made available to the Department of Defense for any fiscal year for operation and maintenance may not be used to provide assistance for the democratic resistance forces in Nicaragua. If funds appropriated or otherwise made available to the Department of Defense for any fiscal year are authorized by law to be used for such assistance, funds for such purpose may only be derived from amounts appropriated or otherwise made available to the Department for procurement (other than ammunition).”

USE OF APPROPRIATED FUNDS TO SUPPORT REVENUE GENERATING ACTIVITIES IN LARGE METROPOLITAN AREAS PROHIBITED

Pub. L. 99-500, §101(c) [title IX, §9102], Oct. 18, 1986, 100 Stat. 1783-82, 1783-118, and Pub. L. 99-591, §101(c) [title IX, §9102], Oct. 30, 1986, 100 Stat. 3341-82, 3341-118, which provided that after Sept. 30, 1987, no appropriated funds could be used to support revenue generating morale, welfare, and recreation activities in large metropolitan areas, was repealed by Pub. L. 100-202, §101(b) [title VIII, §8099], Dec. 22, 1987, 101 Stat. 1329-43, 1329-78.

TRANSFER OF OPERATION AND MAINTENANCE APPROPRIATIONS UNOBLIGATED BALANCES TO FOREIGN CURRENCY FLUCTUATIONS, DEFENSE, APPROPRIATION

Pub. L. 97-377, title I, §101(c) [title VII, §791], Dec. 21, 1982, 96 Stat. 1865, which provided that no later than end of second fiscal year following fiscal year for which appropriations for Operation and Maintenance have been made available to Department of Defense, unobligated balances of such appropriations provided for fiscal year 1982 and thereafter could be transferred into appropriation “Foreign Currency Fluctuations, Defense” to be merged with and available for same time period and same purposes as appropriation to which transferred, except that any transfer made pursuant to any use of this authority was limited so that amount in appropriation did not exceed \$970,000,000 at time of transfer, was repealed and restated in section 2779(d) of this title by Pub. L. 104-106, div. A, title IX, §911(b), (d)(2), (f), Feb. 10, 1996, 110 Stat. 406, 407, applicable only with respect to amounts appropriated for a fiscal year after fiscal year 1995.

WAIVER OF APPLICABILITY OF OMB CIRCULAR A-76 TO CONTRACTING OUT OF CERTAIN RESEARCH AND DEVELOPMENT ACTIVITIES

Section 802 of Pub. L. 96-107 provided that: “(a) Except as provided in subsection (b), neither the implementing instructions for, nor the provisions of, Office of Management and Budget Circular A-76 (issued on August 30, 1967, and reissued on October 18, 1976, June 13, 1977, and March 29, 1979) shall control or be used for policy guidance for the obligation or expenditure of any funds which under section 138(a)(2) [now

114(a)(2)] of title 10, United States Code, are required to be specifically authorized by law.

“(b) Funds which under section 138(a)(2) [now 114(a)(2)] of title 10, United States Code, are required to be specifically authorized by law may be obligated or expended for operation or support of installations or equipment used for research and development (including maintenance support of laboratories, operation and maintenance of test ranges, and maintenance of test aircraft and ships) in compliance with the implementing instructions for and the provisions of such Office of Management and Budget Circular.

“(c) No law enacted after the date of the enactment of this Act [Nov. 9, 1979] shall be held, considered, or construed as amending, superseding, or otherwise modifying any provision of this section unless such law does so by specifically and explicitly amending, repealing, or superseding this section.”

MANPOWER CONVERSION POLICIES; DEVELOPMENT FOR ANNUAL MANPOWER AUTHORIZATION REQUESTS; JUSTIFICATION FOR CONVERSION TO BE CONTAINED IN ANNUAL MANPOWER REQUIREMENTS REPORT TO CONGRESS

Pub. L. 93-365, title V, §502, Aug. 5, 1974, 88 Stat. 404, which provided that it was the sense of Congress that the Department of Defense use the least costly form of manpower consistent with military requirements and other needs of the Department of Defense, that in developing the annual manpower authorization requests to the Congress and in carrying out manpower policies, the Secretary of Defense was to consider the advantages of converting from one form of manpower to another (military, civilian, or private contract) for the performance of a specified job, and that a full justification of any conversion from one form of manpower to another be contained in the annual manpower requirements report to the Congress required by subsec. (c)(3) of this section, was repealed and restated as subsec. (c)(5) of this section by Pub. L. 97-295, §§1(3), 6(b).

[§ 114a. Renumbered § 221]

§ 115. Personnel strengths: requirement for annual authorization

(a) ACTIVE-DUTY AND SELECTED RESERVE END STRENGTHS TO BE AUTHORIZED BY LAW.—Congress shall authorize personnel strength levels for each fiscal year for each of the following:

(1) The end strength for each of the armed forces (other than the Coast Guard) for (A) active-duty personnel who are to be paid from funds appropriated for active-duty personnel unless on active duty pursuant to subsection (b), and (B) active-duty personnel and full-time National Guard duty personnel who are to be paid from funds appropriated for reserve personnel unless on active duty or full-time National Guard duty pursuant to subsection (b).

(2) The end strength for the Selected Reserve of each reserve component of the armed forces.

(b) CERTAIN RESERVES ON ACTIVE DUTY TO BE AUTHORIZED BY LAW.—(1) Congress shall annually authorize the maximum number of members of a reserve component permitted to be on active duty or full-time National Guard duty at any given time who are called or ordered to—

(A) active duty under section 12301(d) of this title for the purpose of providing operational support, as prescribed in regulation issued by the Secretary of Defense;

(B) full-time National Guard duty under section 502(f)(2) of title 32 for the purpose of providing operational support when authorized by the Secretary of Defense;

(C) active duty under section 12301(d) of this title or full-time National Guard duty under section 502(f)(2) of title 32 for the purpose of preparing for and performing funeral honors functions for funerals of veterans under section 1491 of this title;

(D) active duty or retained on active duty under sections 12301(g) of this title while in a captive status; or

(E) active duty or retained on active duty under 12301(h) or 12322 of this title for the purpose of medical evaluation or treatment.

(2) A member of a reserve component who exceeds either of the following limits shall be included in the strength authorized under subparagraph (A) or subparagraph (B), as appropriate, of subsection (a)(1):

(A) A call or order to active duty or full-time National Guard duty that specifies a period greater than three years.

(B) The cumulative periods of active duty and full-time National Guard duty performed by the member exceed 1095 days in the previous 1460 days.

(3) In determining the period of active service under paragraph (2), the following periods of active service performed by a member shall not be included:

(A) All periods of active duty performed by a member who has not previously served in the Selected Reserve of the Ready Reserve.

(B) All periods of active duty or full-time National Guard duty for which the member is exempt from strength accounting under paragraphs (1) through (8) of subsection (i).

(c) **LIMITATION ON APPROPRIATIONS FOR MILITARY PERSONNEL.**—No funds may be appropriated for any fiscal year to or for—

(1) the use of active-duty personnel or full-time National Guard duty personnel of any of the armed forces (other than the Coast Guard) unless the end strength for such personnel of that armed force for that fiscal year has been authorized by law;

(2) the use of the Selected Reserve of any reserve component of the armed forces unless the end strength for the Selected Reserve of that component for that fiscal year has been authorized by law; or

(3) the use of reserve component personnel to perform active duty or full-time National Guard duty under subsection (b) unless the strength for such personnel for that reserve component for that fiscal year has been authorized by law.

(d) **MILITARY TECHNICIAN (DUAL STATUS) END STRENGTHS TO BE AUTHORIZED BY LAW.**—Congress shall authorize for each fiscal year the end strength for military technicians (dual status) for each reserve component of the Army and Air Force. Funds available to the Department of Defense for any fiscal year may not be used for the pay of a military technician (dual status) during that fiscal year unless the technician fills a position that is within the number of such positions authorized by law for that fiscal year for the reserve component of that technician. This subsection applies without regard to section 129 of this title. In each budget submitted by the

President to Congress under section 1105 of title 31, the end strength requested for military technicians (dual status) for each reserve component of the Army and Air Force shall be specifically set forth.

(e) **END-OF-QUARTER STRENGTH LEVELS.**—(1) The Secretary of Defense shall prescribe and include in the budget justification documents submitted to Congress in support of the President's budget for the Department of Defense for any fiscal year the Secretary's proposed end-of-quarter strengths for each of the first three quarters of the fiscal year for which the budget is submitted, in addition to the Secretary's proposed fiscal-year end-strengths for that fiscal year. Such end-of-quarter strengths shall be submitted for each category of personnel for which end strengths are required to be authorized by law under subsection (a) or (d). The Secretary shall ensure that resources are provided in the budget at a level sufficient to support the end-of-quarter and fiscal-year end-strengths as submitted.

(2)(A) After annual end-strength levels required by subsections (a) and (d) are authorized by law for a fiscal year, the Secretary of Defense shall promptly prescribe end-of-quarter strength levels for the first three quarters of that fiscal year applicable to each such end-strength level. Such end-of-quarter strength levels shall be established for any fiscal year as levels to be achieved in meeting each of those annual end-strength levels authorized by law in accordance with subsection (a) (as such levels may be adjusted pursuant to subsection (f)) and subsection (d).

(B) At least annually, the Secretary of Defense shall establish for each of the armed forces (other than the Coast Guard) the maximum permissible variance of actual strength for an armed force at the end of any given quarter from the end-of-quarter strength established pursuant to subparagraph (A). Such variance shall be such that it promotes the maintaining of the strength necessary to achieve the end-strength levels authorized in accordance with subsection (a) (as adjusted pursuant to subsection (f)) and subsection (d).

(3) Whenever the Secretary establishes an end-of-quarter strength level under subparagraph (A) of paragraph (2), or modifies a strength level under the authority provided in subparagraph (B) of paragraph (2), the Secretary shall notify the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives of that strength level or of that modification, as the case may be.

(f) **AUTHORITY FOR SECRETARY OF DEFENSE VARIANCES FOR ACTIVE-DUTY AND SELECTED RESERVE STRENGTHS.**—Upon determination by the Secretary of Defense that such action is in the national interest, the Secretary may—

(1) increase the end strength authorized pursuant to subsection (a)(1)(A) for a fiscal year for any of the armed forces by a number equal to not more than 3 percent of that end strength;

(2) increase the end strength authorized pursuant to subsection (a)(1)(B) for a fiscal year for any of the armed forces by a number equal to not more than 2 percent of that end strength;

(3) vary the end strength authorized pursuant to subsection (a)(2) for a fiscal year for the Selected Reserve of any of the reserve components by a number equal to not more than 2 percent of that end strength; and

(4) increase the maximum strength authorized pursuant to subsection (b)(1) for a fiscal year for certain reserves on active duty for any of the reserve components by a number equal to not more than 10 percent of that strength.

(g) **AUTHORITY FOR SERVICE SECRETARY VARIANCES FOR ACTIVE-DUTY END STRENGTHS.**—Upon determination by the Secretary of a military department that such action would enhance manning and readiness in essential units or in critical specialties or ratings, the Secretary may increase the end strength authorized pursuant to subsection (a)(1)(A) for a fiscal year for the armed force under the jurisdiction of that Secretary or, in the case of the Secretary of the Navy, for any of the armed forces under the jurisdiction of that Secretary. Any such increase for a fiscal year—

(1) shall be by a number equal to not more than 2 percent of such authorized end strength; and

(2) shall be counted as part of the increase for that armed force for that fiscal year authorized under subsection (f)(1).

(h) **ADJUSTMENT WHEN COAST GUARD IS OPERATING AS A SERVICE IN THE NAVY.**—The authorized strength of the Navy under subsection (a)(1) is increased by the authorized strength of the Coast Guard during any period when the Coast Guard is operating as a service in the Navy.

(i) **CERTAIN PERSONNEL EXCLUDED FROM COUNTING FOR ACTIVE-DUTY END STRENGTHS.**—In counting personnel for the purpose of the end strengths authorized pursuant to subsection (a)(1), persons in the following categories shall be excluded:

(1) Members of a reserve component ordered to active duty under section 12301(a) of this title.

(2) Members of a reserve component in an active status ordered to active duty under section 12301(b) of this title.

(3) Members of the Ready Reserve ordered to active duty under section 12302 of this title.

(4) Members of the Selected Reserve of the Ready Reserve or members of the Individual Ready Reserve mobilization category described in section 10144(b) of this title ordered to active duty under section 12304 of this title.

(5) Members of the National Guard called into Federal service under section 12406 of this title.

(6) Members of the militia called into Federal service under chapter 15 of this title.

(7) Members of the National Guard on full-time National Guard duty under section 502(f)(1) of title 32.

(8) Members of reserve components on active duty for training or full-time National Guard duty for training.

(9) Members of the Selected Reserve of the Ready Reserve on active duty to support programs described in section 1203(b) of the Cooperative Threat Reduction Act of 1993 (22 U.S.C. 5952(b)).

(10) Members of the National Guard on active duty or full-time National Guard duty for the purpose of carrying out drug interdiction and counter-drug activities under section 112 of title 32.

(11) Members of a reserve component 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.

(12) Members of the National Guard on full-time National Guard duty for the purpose of providing command, administrative, training, or support services for the National Guard Challenge Program authorized by section 509 of title 32.

(13) Members of the National Guard on full-time National Guard duty involuntarily and performing homeland defense activities under chapter 9 of title 32.

(Added Pub. L. 101-510, div. A, title XIV, §1483(a), Nov. 5, 1990, 104 Stat. 1710; amended Pub. L. 102-190, div. A, title III, §312(a), Dec. 5, 1991, 105 Stat. 1335; Pub. L. 104-106, div. A, title IV, §§401(c), 415, title V, §513(a)(1), title X, §1061(c), title XV, §1501(c)(3), Feb. 10, 1996, 110 Stat. 286, 288, 305, 442, 498; Pub. L. 105-85, div. A, title IV, §413(b), title V, §522(i)(1), Nov. 18, 1997, 111 Stat. 1720, 1736; Pub. L. 106-65, div. A, title IV, §415, Oct. 5, 1999, 113 Stat. 587; Pub. L. 106-398, §1 [[div. A], title IV, §422], Oct. 30, 2000, 114 Stat. 1654, 1654A-96; Pub. L. 107-107, div. A, title IV, §§421(a), 422, Dec. 28, 2001, 115 Stat. 1076, 1077; Pub. L. 107-314, div. A, title IV, §403, Dec. 2, 2002, 116 Stat. 2525; Pub. L. 108-136, div. A, title IV, §403(a), (b), Nov. 24, 2003, 117 Stat. 1450, 1451; Pub. L. 108-375, div. A, title IV, §416(a)-(d), title V, §512(b), Oct. 28, 2004, 118 Stat. 1866, 1867, 1880; Pub. L. 109-364, div. A, title X, §1071(a)(1), (g)(1)(A), Oct. 17, 2006, 120 Stat. 2398, 2402.)

PRIOR PROVISIONS

A prior section 115, added Pub. L. 93-155, title VIII, §803(a), Nov. 16, 1973, 87 Stat. 612, §138(b)-(d); amended Pub. L. 94-361, title III, §302, July 14, 1976, 90 Stat. 924; Pub. L. 96-107, title III, §303(b), Nov. 9, 1979, 93 Stat. 806; Pub. L. 96-513, title I, §102, Dec. 12, 1980, 94 Stat. 2840; Pub. L. 97-22, §2(b), July 10, 1981, 95 Stat. 124; Pub. L. 97-86, title IX, §§902, 903, Dec. 1, 1981, 95 Stat. 1113, 1114; Pub. L. 97-252, title IV, §402(a), Sept. 8, 1982, 96 Stat. 725; Pub. L. 97-295, §1(3), Oct. 12, 1982, 96 Stat. 1289; Pub. L. 99-145, title XII, §1208, Nov. 8, 1985, 99 Stat. 723; renumbered §115 Pub. L. 99-433, title I, §§101(a)(2), 110(b)(4), (5), Oct. 1, 1986, 100 Stat. 994, 1002; Pub. L. 99-661, div. A, title IV, §§411(c) [(d)], 413, Nov. 14, 1986, 100 Stat. 3861, 3862; Pub. L. 100-26, §7(j)(2), Apr. 21, 1987, 101 Stat. 283; Pub. L. 100-456, div. A, title VI, §641, Sept. 29, 1988, 102 Stat. 1987, related to annual authorization of personnel strengths and annual manpower requirements reports, prior to repeal and reenactment as sections 115, 115a, 115b [now 10541], 123a, and 129a of this title by Pub. L. 101-510, §1483(a), (b).

AMENDMENTS

2006—Subsec. (a)(1)(A). Pub. L. 109-364, §1071(g)(1)(A), made technical correction to directory language of Pub. L. 108-375, §416(a)(1). See 2004 Amendment note below.

Subsec. (i). Pub. L. 109-364, §1071(a)(1)(A), struck out heading and text of subsec. (i) enacted by Pub. L. 108-375, §512(b). Text read as follows: “In counting full-time National Guard duty personnel for the purpose of end-strengths authorized pursuant to subsection (a)(1), persons involuntarily performing homeland defense activities under chapter 9 of title 32 shall be excluded.”

Subsec. (i)(13). Pub. L. 109-364, §1071(a)(1)(B), added par. (13).

2004—Subsec. (a)(1)(A). Pub. L. 108-375, §416(a)(1), as amended by Pub. L. 109-364, §1071(g)(1)(A), inserted “unless on active duty pursuant to subsection (b)” after “funds appropriated for active-duty personnel”.

Subsec. (a)(1)(B). Pub. L. 108-375, §416(a)(2), inserted “unless on active duty or full-time National Guard duty pursuant to subsection (b)” after “reserve personnel”.

Subsec. (b). Pub. L. 108-375, §416(a)(4), added subsec. (b). Former subsec. (b) redesignated (c).

Subsec. (c). Pub. L. 108-375, §416(a)(3), redesignated subsec. (b) as (c). Former subsec. (c) redesignated (d).

Subsec. (c)(3). Pub. L. 108-375, §416(b), added par. (3).

Subsec. (d). Pub. L. 108-375, §416(a)(3), redesignated subsec. (c) as (d). Former subsec. (d) redesignated (e).

Subsec. (e). Pub. L. 108-375, §416(a)(3), redesignated subsec. (d) as (e). Former subsec. (e) redesignated (f).

Subsec. (e)(1). Pub. L. 108-375, §416(d)(1)(A), substituted “subsection (a) or (d)” for “subsection (a) or (c)”.

Subsec. (e)(2). Pub. L. 108-375, §416(d)(1)(B), substituted “subsections (a) and (d)” for “subsections (a) and (c)” in subpar. (A) and substituted “pursuant to subsection (f) and subsection (d)” for “pursuant to subsection (e) and subsection (c)” in subpars. (A) and (B).

Subsec. (f). Pub. L. 108-375, §416(c)(1), struck out “End” after “Reserve” in heading.

Pub. L. 108-375, §416(a)(3), redesignated subsec. (e) as (f). Former subsec. (f) redesignated (g).

Subsec. (f)(4). Pub. L. 108-375, §416(c)(2)–(4), added par. (4).

Subsec. (g). Pub. L. 108-375, §416(a)(3), redesignated subsec. (f) as (g). Former subsec. (g) redesignated (h).

Subsec. (g)(2). Pub. L. 108-375, §416(d)(2), substituted “subsection (f)(1)” for “subsection (e)(1)”.

Subsec. (h). Pub. L. 108-375, §416(a)(3), redesignated subsec. (g) as (h). Former subsec. (h) redesignated (i).

Subsec. (i). Pub. L. 108-375, §512(b), added subsec. (i) relating to certain full-time National Guard duty personnel excluded from counting for full-time National Guard duty end strengths.

Pub. L. 108-375, §416(d)(3), amended heading and text of subsec. (i) generally, substituting provisions relating to 12 categories of personnel excluded from counting for active-duty end strengths for provisions relating to 11 categories of active-duty personnel excluded from counting for active-duty end strengths.

Pub. L. 108-375, §416(a)(3), redesignated subsec. (h) as (i).

2003—Subsecs. (a), (b). Pub. L. 108-136, §403(b)(1), (2), inserted headings.

Subsec. (c). Pub. L. 108-136, §403(a)(1), (b)(3), redesignated subsec. (g) as (c), transferred it to appear after subsec. (b), and inserted heading. Former subsec. (c) redesignated (e).

Subsec. (d). Pub. L. 108-136, §403(a)(3), added subsec. (d). Former subsec. (d) redesignated (h).

Subsec. (e). Pub. L. 108-136, §403(a)(1), (b)(4), redesignated subsec. (c) as (e), transferred it to appear after subsec. (d), and inserted heading. Former subsec. (e) redesignated (g).

Subsec. (f). Pub. L. 108-136, §403(b)(5), inserted heading and, in par. (2), substituted “subsection (e)(1)” for “subsection (c)(1)”.

Subsec. (g). Pub. L. 108-136, §403(a)(1), (b)(6), redesignated subsec. (e) as (g), transferred it to appear after subsec. (f), and inserted heading. Former subsec. (g) redesignated (c).

Subsec. (h). Pub. L. 108-136, §403(a)(2), (b)(7), redesignated subsec. (d) as (h), transferred it to appear at end of section, and inserted heading.

2002—Subsec. (c)(1). Pub. L. 107-314, §403(a), substituted “3 percent” for “2 percent”.

Subsec. (f). Pub. L. 107-314, §403(b), added subsec. (f).

2001—Subsec. (c)(1). Pub. L. 107-107, §421(a), substituted “2 percent” for “1 percent”.

Subsec. (d)(10), (11). Pub. L. 107-107, §422, added pars. (10) and (11).

2000—Subsec. (d)(9). Pub. L. 106-398 added par. (9).

1999—Subsec. (c)(3). Pub. L. 106-65 added par. (3).

1997—Subsec. (g). Pub. L. 105-85, §522(i)(1), inserted “(dual status)” after “military technicians” in first sentence and after “military technician” in second sentence.

Pub. L. 105-85, §413(b), inserted at end “In each budget submitted by the President to Congress under section 1105 of title 31, the end strength requested for military technicians (dual status) for each reserve component of the Army and Air Force shall be specifically set forth.”

1996—Subsec. (a)(3). Pub. L. 104-106, §1061(c)(1), struck out par. (3) which read as follows: “The average military training student loads for each of the armed forces (other than the Coast Guard).”

Subsec. (b). Pub. L. 104-106, §1061(c)(2), inserted “or” at end of par. (1), substituted a period for “; or” at end of par. (2), and struck out par. (3) which read as follows: “training military personnel in the training categories described in subsection (f) of any of the armed forces (other than the Coast Guard) unless the average student load of that armed force for that fiscal year has been authorized by law.”

Subsec. (c)(1). Pub. L. 104-106, §401(c), substituted “1 percent” for “0.5 percent”.

Subsec. (d)(1). Pub. L. 104-106, §1501(c)(3)(A), substituted “section 12302” for “section 673”.

Subsec. (d)(2). Pub. L. 104-106, §1501(c)(3)(B), substituted “section 12304” for “section 673b”.

Subsec. (d)(3). Pub. L. 104-106, §1501(c)(3)(C), substituted “section 12406” for “section 3500 or 8500”.

Subsec. (d)(8). Pub. L. 104-106, §415, added par. (8).

Subsec. (f). Pub. L. 104-106, §1061(c)(3), struck out subsec. (f) which read as follows: “Authorization under subsection (a)(3) is not required for unit or crew training student loads, but is required for student loads for the following individual training categories:

- “(1) Recruit and specialized training.
- “(2) Flight training.
- “(3) Professional training in military and civilian institutions.
- “(4) Officer acquisition training.”

Subsec. (g). Pub. L. 104-106, §513(a)(1), added subsec. (g).

1991—Subsec. (a)(4). Pub. L. 102-190, §312(a)(1), struck out par. (4) which read as follows: “The end strength for civilian personnel for each component of the Department of Defense.”

Subsec. (b)(2) to (4). Pub. L. 102-190, §312(a)(2), inserted “or” at end of par. (2), substituted a period for “; or” at end of par. (3), and struck out par. (4) which read as follows: “the use of the civilian personnel of any component of the Department of Defense unless the end strength for civilian personnel of that component for that fiscal year has been authorized by law.”

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)(A) is effective as of Oct. 28, 2004, and as if included in Pub. L. 108-375 as enacted.

EFFECTIVE DATE OF 2003 AMENDMENT

Pub. L. 108-136, div. A, title IV, §403(d), Nov. 24, 2003, 117 Stat. 1452, provided that: “Subsection (d) of section 115 of title 10, United States Code, as added by subsection (a)(3), shall apply with respect to the budget request for fiscal year 2005 and thereafter.”

EFFECTIVE DATE OF 1996 AMENDMENT

Section 513(a)(2) of Pub. L. 104-106 provided that: “The amendment made by paragraph (1) [amending this section] does not apply with respect to fiscal year 1995.”

Section 1501(c) of Pub. L. 104-106 provided that the amendment made by that section is effective as of Dec. 1, 1994, and as if included as an amendment made by the Reserve Officer Personnel Management Act, title XVI of Pub. L. 103-337, as originally enacted.

REGULATIONS

Pub. L. 108-375, div. A, title IV, §416(m), Oct. 28, 2004, 118 Stat. 1869, provided that: "The Secretary of Defense shall prescribe by regulation the meaning of the term 'operational support' for purposes of paragraph (1) of subsection (b) of section 115 of title 10, United States Code, as added by subsection (a)."

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.

ADDITIONAL AUTHORITY FOR INCREASES OF ARMY ACTIVE DUTY PERSONNEL END STRENGTHS FOR FISCAL YEARS 2008 AND 2009

Pub. L. 108-375, div. A, title IV, §403, Oct. 28, 2004, 118 Stat. 1863, as amended by Pub. L. 109-163, div. A, title IV, §403, Jan. 6, 2006, 119 Stat. 3219; Pub. L. 109-364, div. A, title IV, §403, Oct. 17, 2006, 120 Stat. 2169, provided that:

"(a) AUTHORITY.—

"(1) ARMY.—For each of fiscal years 2008 and 2009, the Secretary of Defense may, as the Secretary determines necessary for the purposes specified in paragraph (3), establish the active-duty end strength for the Army at a number greater than the number otherwise authorized by law up to the number equal to the fiscal-year 2007 baseline plus 20,000.

"(2) MARINE CORPS.—For each of fiscal years 2008 and 2009, the Secretary of Defense may, as the Secretary determines necessary for the purposes specified in paragraph (3), establish the active-duty end strength for the Marine Corps at a number greater than the number otherwise authorized by law up to the number equal to the fiscal-year 2007 baseline plus 4,000.

"(3) PURPOSE OF INCREASES.—The purposes for which increases may be made in Army and Marine Corps active duty end strengths under paragraphs (1) and (2) are—

"(A) to support operational missions; and

"(B) to achieve transformational reorganization objectives, including objectives for increased numbers of combat brigades and battalions, increased unit manning, force stabilization and shaping, and rebalancing of the active and reserve component forces.

"(4) FISCAL-YEAR 2007 BASELINE.—In this subsection, the term 'fiscal-year 2007 baseline', with respect to the Army and Marine Corps, means the active-duty end strength authorized for those services in section 401 of the John Warner National Defense Authorization Act for Fiscal Year 2007 [Pub. L. 109-364, 120 Stat. 2168].

"(5) ACTIVE-DUTY END STRENGTH.—In this subsection, the term 'active-duty end strength' means the strength for active-duty personnel of one of the Armed Forces as of the last day of a fiscal year.

"(b) RELATIONSHIP TO PRESIDENTIAL WAIVER AUTHORITY.—Nothing in this section shall be construed to limit the President's authority under section 123a of title 10, United States Code, to waive any statutory end strength in a time of war or national emergency.

"(c) RELATIONSHIP TO OTHER VARIANCE AUTHORITY.—The authority under subsection (a) is in addition to the authority to vary authorized end strengths that is provided in subsections (e) and (f) of section 115 of title 10, United States Code.

"(d) BUDGET TREATMENT.—

"(1) FISCAL YEAR 2008 BUDGET.—The budget for the Department of Defense for fiscal year 2008 as submitted to Congress shall comply, with respect to funding,

with subsections (c) and (d) of section 691 of title 10, United States Code.

"(2) OTHER INCREASES.—If the Secretary of Defense plans to increase the Army or Marine Corps active duty end strength for a fiscal year under subsection (a), then the budget for the Department of Defense for that fiscal year as submitted to Congress shall include the amounts necessary for funding that active duty end strength in excess of the fiscal year 2007 active duty end strength authorized for that service under section 401 of the John Warner National Defense Authorization Act for Fiscal Year 2007 [Pub. L. 109-364, 120 Stat. 2168]."

[Pub. L. 109-364, div. A, title IV, §403, Oct. 17, 2006, 120 Stat. 2169, provided that the amendment made by that section to section 403 of Pub. L. 108-375, set out above, is effective Oct. 1, 2007.]

[Pub. L. 109-163, div. A, title IV, §403, Jan. 6, 2006, 119 Stat. 3219, provided that the amendment made by that section to section 403 of Pub. L. 108-375, set out above, is effective Oct. 1, 2006.]

AUTHORIZATION FOR INCREASE IN ACTIVE-DUTY END STRENGTHS FOR FISCAL YEAR 1996

Pub. L. 104-106, div. A, title IV, §432, Feb. 10, 1996, 110 Stat. 290, authorized \$112,000,000 to be appropriated to the Department of Defense for fiscal year 1996 to increase the number of active-component military personnel for that fiscal year and provided that end-strength authorizations would each be deemed to be increased as necessary.

END STRENGTHS FOR MILITARY TECHNICIANS (DUAL STATUS)

Pub. L. 109-163, div. A, title IV, §413, Jan. 6, 2006, 119 Stat. 3221, which authorized the minimum number of military technicians (dual status) as of the last day of a fiscal year for each of the reserve components of the Army and the Air Force, was from the National Defense Authorization Act for Fiscal Year 2006 and was repeated in provisions of subsequent authorization acts which are not set out in the Code. Similar provisions were contained in the following prior authorization acts:

Pub. L. 108-375, div. A, title IV, §413, Oct. 28, 2004, 118 Stat. 1865.

Pub. L. 108-136, div. A, title IV, §413, Nov. 24, 2003, 117 Stat. 1453.

Pub. L. 107-314, div. A, title IV, §413, Dec. 2, 2002, 116 Stat. 2527.

Pub. L. 107-107, div. A, title IV, §413, Dec. 28, 2001, 115 Stat. 1070.

Pub. L. 106-398, §1 [[div. A], title IV, §413], Oct. 30, 2000, 114 Stat. 1654, 1654A-93.

Pub. L. 106-65, div. A, title IV, §413, Oct. 5, 1999, 113 Stat. 586.

Pub. L. 105-261, div. A, title IV, §413, Oct. 17, 1998, 112 Stat. 1997.

Pub. L. 105-85, div. A, title IV, §413(a), Nov. 18, 1997, 111 Stat. 1720.

Pub. L. 104-201, div. A, title IV, §413(a), Sept. 23, 1996, 110 Stat. 2507.

Pub. L. 104-106, div. A, title V, §513(b), Feb. 10, 1996, 110 Stat. 305.

COMPTROLLER GENERAL REVIEW OF PROPOSED ARMY END STRENGTH ALLOCATIONS

Pub. L. 104-106, title V, §552, Feb. 10, 1996, 110 Stat. 319, provided that, during fiscal years 1996 through 2001, the Comptroller General was (1) to analyze the plans of the Secretary of the Army for the allocation of assigned active component end strengths for the Army through the requirements process known as Total Army Analysis 2003 and through any subsequent similar requirements process of the Army that was conducted before 2002, (2) to consider whether the proposed active component end strengths and planned allocation of forces for that period was sufficient to implement the national military strategy, and (3) to submit to

Congress an annual report by Mar. 1 of each year through 2002 on the Comptroller General's findings and conclusions, prior to repeal by Pub. L. 107-107, div. A, title V, §595, Dec. 28, 2001, 115 Stat. 1126.

EFFECT OF RESERVE COMPONENT ON COMPUTATION OF END STRENGTH LIMITATION FOR ACTIVE FORCES FOR FISCAL YEAR 1995

Pub. L. 103-337, div. A, title XIII, §1316(c), Oct. 5, 1994, 108 Stat. 2899, provided that a member of a reserve component who is on active duty under a call or order to active duty for 180 days or more for activities under section 168 of this title shall not be counted (under subsec. (a)(1) of this section) against the applicable end strength limitation for members of the Armed Forces on active duty for fiscal year 1995 prescribed in section 401 of Pub. L. 103-337, formerly set out below.

END STRENGTHS FOR ACTIVE FORCES

Pub. L. 109-163, div. A, title IV, §401, Jan. 6, 2006, 119 Stat. 3218, which authorized specified strengths for Armed Forces active duty personnel as of Sept. 30, 2006, and provided that costs for that fiscal year of active duty personnel of the Army and the Marine Corps in excess of specified amounts would be paid out of funds authorized to be appropriated for that fiscal year for a contingent emergency reserve fund or as an emergency supplemental appropriation, was from the National Defense Authorization Act for Fiscal Year 2006 and was repeated in provisions of subsequent authorization acts which are not set out in the Code. Similar provisions were contained in the following prior authorization acts:

Pub. L. 108-375, div. A, title IV, §401, Oct. 28, 2004, 118 Stat. 1862.

Pub. L. 108-136, div. A, title IV, §401, Nov. 24, 2003, 117 Stat. 1450.

Pub. L. 107-314, div. A, title IV, §401, Dec. 2, 2002, 116 Stat. 2524.

Pub. L. 107-107, div. A, title IV, §401, Dec. 28, 2001, 115 Stat. 1069.

Pub. L. 106-398, §1 [[div. A], title IV, §401], Oct. 30, 2000, 114 Stat. 1654, 1654A-92.

Pub. L. 106-65, div. A, title IV, §401, Oct. 5, 1999, 113 Stat. 585.

Pub. L. 105-261, div. A, title IV, §401, Oct. 17, 1998, 112 Stat. 1995.

Pub. L. 105-85, div. A, title IV, §401, Nov. 18, 1997, 111 Stat. 1719.

Pub. L. 104-201, div. A, title IV, §401, Sept. 23, 1996, 110 Stat. 2503.

Pub. L. 104-106, div. A, title IV, §401(a), Feb. 10, 1996, 110 Stat. 285.

Pub. L. 103-337, div. A, title IV, §401, Oct. 5, 1994, 108 Stat. 2743.

Pub. L. 103-160, div. A, title IV, §§401, 403, Nov. 30, 1993, 107 Stat. 1639, 1640.

Pub. L. 102-484, div. A, title IV, §§401, 402, Oct. 23, 1992, 106 Stat. 2397.

Pub. L. 102-190, div. A, title IV, §401, title VI, §664, Dec. 5, 1991, 105 Stat. 1349, 1399.

Pub. L. 101-510, div. A, title IV, §§401, 402, Nov. 5, 1990, 104 Stat. 1543, 1544; Pub. L. 102-25, title II, §§201(a), 202, 205(a), Apr. 6, 1991, 105 Stat. 79, 80; Pub. L. 104-106, div. A, title XV, §1502(c)(4)(A), Feb. 10, 1996, 110 Stat. 507.

Pub. L. 101-189, div. A, title IV, §401, Nov. 29, 1989, 103 Stat. 1431, as amended by Pub. L. 101-510, div. A, title IV, §401(d), Nov. 5, 1990, 104 Stat. 1544.

Pub. L. 100-456, div. A, title IV, §401, Sept. 29, 1988, 102 Stat. 1963.

Pub. L. 100-180, div. A, title IV, §401, Dec. 4, 1987, 101 Stat. 1081.

Pub. L. 99-661, div. A, title IV, §401, Nov. 14, 1986, 100 Stat. 3859.

Pub. L. 99-145, title IV, §401, Nov. 8, 1985, 99 Stat. 618.

Pub. L. 98-525, title IV, §401, Oct. 19, 1984, 98 Stat. 2516.

Pub. L. 98-94, title IV, §401, Sept. 24, 1983, 97 Stat. 629.

Pub. L. 97-252, title IV, §401, Sept. 8, 1982, 96 Stat. 725.

Pub. L. 97-86, title IV, §401, Dec. 1, 1981, 95 Stat. 1104, as amended by Pub. L. 97-252, title IX, §903, Sept. 8, 1982, 96 Stat. 729.

Pub. L. 96-342, title III, §301, Sept. 8, 1980, 94 Stat. 1082, as amended by Pub. L. 97-39, title III, §301, Aug. 14, 1981, 95 Stat. 940.

Pub. L. 96-107, title III, §301, Nov. 9, 1979, 93 Stat. 806.
Pub. L. 95-485, title III, §301, Oct. 20, 1978, 92 Stat. 1613.

Pub. L. 95-79, title III, §301, July 30, 1977, 91 Stat. 326.

Pub. L. 94-361, title III, §301, July 14, 1976, 90 Stat. 924.

Pub. L. 94-106, title III, §301, Oct. 7, 1975, 89 Stat. 532.

Pub. L. 93-365, title III, §301, Aug. 5, 1974, 88 Stat. 401.

Pub. L. 93-155, title III, §301, Nov. 16, 1973, 87 Stat. 607.

Pub. L. 92-436, title III, §301, Sept. 26, 1972, 86 Stat. 735.

MINIMUM NUMBER OF NAVY HEALTH PROFESSIONS OFFICERS

Section 718(b) of Pub. L. 102-190 provided that, of the total number of officers authorized to be serving on active duty in Navy on last day of a fiscal year, 12,510 were to be available only for assignment to duties in health profession specialties, prior to repeal by Pub. L. 104-106, div. A, title V, §564(d)(2), Feb. 10, 1996, 110 Stat. 327.

LIMITATIONS ON REDUCTIONS IN MEDICAL PERSONNEL

Section 711 of Pub. L. 101-510, as amended by Pub. L. 102-190, div. A, title VII, §718(a), Dec. 5, 1991, 105 Stat. 1404, prohibited Secretary of Defense from reducing number of medical personnel of Department of Defense below baseline number unless Secretary certified to Congress that number of such personnel being reduced was excess to current and projected needs of military departments, and such reduction would not result in increase in cost of health care services provided under Civilian Health and Medical Program of the Uniformed Services, and, in case of military medical personnel, included in certification information on strength levels for individual category of medical personnel involved in reduction as of Sept. 30, 1989, projected requirements of Department over 5-fiscal year period following fiscal year in which certification was submitted for medical personnel in category of medical personnel involved, and strength level recommended for each component of Armed Forces for most recent fiscal year for which Secretary submitted recommendations pursuant to section 115a(g)(1) of this title for personnel in category of medical personnel involved, prior to repeal by Pub. L. 104-106, div. A, title V, §564(d)(1), Feb. 10, 1996, 110 Stat. 327. See section 129c of this title.

OPERATION DESERT SHIELD INCREASE IN END STRENGTHS OF ACTIVE DUTY PERSONNEL; AUTHORITY; CERTIFICATION

Section 1117 of Pub. L. 101-510, authorized Secretary of Defense, after determining that operational requirements of Operation Desert Shield so require, to increase the end strengths of active duty personnel for fiscal year 1991 by an amount not greater than 0.5 percent of the total end strengths authorized by section 401 of Pub. L. 101-510, set out above, and required certification by Secretary to Committees on Armed Services of Senate and House of Representatives of necessity of such increase, prior to repeal by Pub. L. 102-25, title II, §204, Apr. 6, 1991, 105 Stat. 80.

§ 115a. Annual manpower requirements report

(a) The Secretary of Defense shall submit to Congress an annual manpower requirements report. The report, which shall be in writing, shall be submitted each year not later than 45 days after the date on which the President submits to Congress the budget for the next fiscal year under section 1105 of title 31. The report shall contain the Secretary's recommendations for—