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 Repealed.]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; exclusion from distribution and strength limitations; pay and allowances.

AMENDMENTS


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.


AMENDMENTS


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, 1306, 1307, 1308, 1406, 5414, 5457, 5458, 5510 to 5503, 5596, 5600, 5665, 6389, and 6391 of this title, sections 286a and 314 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 1069 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, 1988, may not exceed—

(A) in the case of the Army, 1166,727; 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.”

increase by not more than 1 percentage point (to not more than 98 percent) the percentage limitation prescribed in section 408(a) of the National Defense Authorization Act for Fiscal Year 1967 (Public Law 90–661; 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, 1968.

“(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 1968 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.


“(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)):

<table>
<thead>
<tr>
<th>Column 1</th>
<th>Column 2</th>
</tr>
</thead>
<tbody>
<tr>
<td>On and after:</td>
<td>99 97</td>
</tr>
<tr>
<td>September 30, 1987</td>
<td>September 30, 1988</td>
</tr>
</tbody>
</table>

“(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 101(a)(1), 102(a), 103(a), 109(a), or 12309(b)(1), United States Code, or other provisions of title 10, United States Code, or section 305 of title 32, United States Code;

“(C) on active duty under section 12309(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 306(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) AFFIRMATION 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.”


Repealed effective on the first day of the first month beginning more than 180 days after Oct. 28, 2004, see section 501(e) 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:

<table>
<thead>
<tr>
<th>Number of officers who may be serving on active duty in grade of:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Major</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Total number of commissioned officers</th>
<th>Number of officers who may be serving on active duty in grade of:</th>
</tr>
</thead>
<tbody>
<tr>
<td>20,000</td>
<td>2,768</td>
</tr>
<tr>
<td>25,000</td>
<td>5,680</td>
</tr>
<tr>
<td>30,000</td>
<td>6,111</td>
</tr>
<tr>
<td>35,000</td>
<td>10,352</td>
</tr>
<tr>
<td>40,000</td>
<td>11,454</td>
</tr>
<tr>
<td>45,000</td>
<td>12,575</td>
</tr>
<tr>
<td>50,000</td>
<td>13,297</td>
</tr>
<tr>
<td>55,000</td>
<td>14,218</td>
</tr>
<tr>
<td>60,000</td>
<td>15,140</td>
</tr>
<tr>
<td>65,000</td>
<td>16,061</td>
</tr>
<tr>
<td>70,000</td>
<td>16,983</td>
</tr>
<tr>
<td>75,000</td>
<td>17,903</td>
</tr>
<tr>
<td>80,000</td>
<td>18,825</td>
</tr>
<tr>
<td>85,000</td>
<td>19,746</td>
</tr>
<tr>
<td>90,000</td>
<td>20,668</td>
</tr>
<tr>
<td>95,000</td>
<td>21,589</td>
</tr>
<tr>
<td>100,000</td>
<td>22,511</td>
</tr>
<tr>
<td>110,000</td>
<td>24,364</td>
</tr>
<tr>
<td>120,000</td>
<td>26,197</td>
</tr>
<tr>
<td>130,000</td>
<td>28,040</td>
</tr>
<tr>
<td>170,000</td>
<td>35,412</td>
</tr>
<tr>
<td>170,000</td>
<td>35,412</td>
</tr>
</tbody>
</table>

Air Force: 35,000, 8,689, 5,927, 3,631
35,000, 10,025, 7,478, 2,306
45,000, 10,835, 7,866, 2,877
§ 523

(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:

<table>
<thead>
<tr>
<th>Total number of commissioned officers in categories specified in subsection (b) on active duty</th>
<th>Number of officers who may be serving on active duty in grade of:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Major</td>
<td>Lieutenant Colonel</td>
</tr>
<tr>
<td>50,000</td>
<td>11,645</td>
</tr>
<tr>
<td>55,000</td>
<td>12,454</td>
</tr>
<tr>
<td>60,000</td>
<td>13,264</td>
</tr>
<tr>
<td>65,000</td>
<td>14,073</td>
</tr>
<tr>
<td>70,000</td>
<td>14,883</td>
</tr>
<tr>
<td>75,000</td>
<td>15,693</td>
</tr>
<tr>
<td>80,000</td>
<td>16,502</td>
</tr>
<tr>
<td>85,000</td>
<td>17,312</td>
</tr>
<tr>
<td>90,000</td>
<td>18,121</td>
</tr>
<tr>
<td>95,000</td>
<td>18,931</td>
</tr>
<tr>
<td>100,000</td>
<td>19,741</td>
</tr>
<tr>
<td>105,000</td>
<td>20,550</td>
</tr>
<tr>
<td>110,000</td>
<td>21,360</td>
</tr>
<tr>
<td>115,000</td>
<td>22,169</td>
</tr>
<tr>
<td>120,000</td>
<td>22,979</td>
</tr>
<tr>
<td>125,000</td>
<td>23,789</td>
</tr>
<tr>
<td>130,000</td>
<td>24,599</td>
</tr>
<tr>
<td>135,000</td>
<td>25,409</td>
</tr>
<tr>
<td>140,000</td>
<td>26,219</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Number of officers who may be serving on active duty in grade of:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Colonel</td>
</tr>
<tr>
<td>5,381</td>
</tr>
<tr>
<td>5,019</td>
</tr>
<tr>
<td>4,658</td>
</tr>
<tr>
<td>4,296</td>
</tr>
<tr>
<td>3,836</td>
</tr>
<tr>
<td>3,375</td>
</tr>
<tr>
<td>2,914</td>
</tr>
<tr>
<td>2,453</td>
</tr>
<tr>
<td>1,992</td>
</tr>
<tr>
<td>1,532</td>
</tr>
<tr>
<td>1,072</td>
</tr>
<tr>
<td>612</td>
</tr>
</tbody>
</table>

(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.


AMENDMENTS

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,
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 active 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 602 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 to be served on active duty in grade of colonel 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**

**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. 100–456, div. A, title IV, § 403, Sept. 29, 1988, 102 Stat. 1636, 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


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;
   (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;
   (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;
   (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;
   (C) 22 officers in the grade of major general.

(b)(1) The limitations of subsection (a) do not include the following:

(A) 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 3 officers from each armed forces may be on active duty who are excluded under this subparagraph.

(B) An officer while serving in the position of Staff Judge Advocate to the Commandant of the Marine Corps under section 5046 of this title.

(C) 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.

(D) An officer while serving as Chief of the National Guard Bureau.

(2) An officer of the Army while serving as Superintendent of the United States Military Academy, if serving in the grade of lieutenant general, is in addition to the number that would otherwise be permitted for the Army for officers serving on active duty in grades above major general under subsection (a). An officer of the Navy or Marine Corps while serving as Superintendent of the United States Naval Academy, if serving in the grade of vice admiral or lieutenant general, is in addition to the number that would otherwise be permitted for the Navy or Marine Corps, respectively, for officers serving on active duty in grades above major general or rear admiral under subsection (a). An officer while serving as Superintendent of the United States Air Force Academy, if serving in the grade of lieutenant general, is in addition to the number that would otherwise be permitted for the Air Force for officers serving on active duty in grades above major general under subsection (a).

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

(A) may make appointments in the Army, Air Force, or 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 grades 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.
(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 out 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 of officers 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).

(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.

(5) (A) [752] (c) [753] 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) The exception in paragraph (1) does not apply to Chief of the National Guard Bureau.

(3) 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.

(4) "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)"

(5) "15" for "the number equal to 10 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"

(6) [752] (c) [753] In determining the total number of general officers or flag officers of an armed force on active duty for purposes

AMENDMENTS


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.

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

Subsec. (c)(3)(A), Pub. L. 111–84, § 502(c)(3), 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

(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 out 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.

(3) 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.
of this section, the following officers shall not be counted":

Subsec. (g), Pub. L. 111–98, §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).


Subsec. (b)(2)(B). Pub. L. 110–417, §503(d)(2)(B), substituted "17.5 percent" for "17.5 percent".

Subsec. (e)(2), Pub. L. 110–148, §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."


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.


Subsec. (a), redesignated existing provisions as subpars. (A) and (B) 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."


1999—Subsec. (b)(5)(A). Pub. L. 106–95, §500(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."


1996—Subsec. (b)(5)(C). Pub. L. 104–99 inserted "or Director, Air National Guard under section 3038, 5143, 5144, or 8038, and 10506 of this title."


1993—Subsec. (b)(3). Pub. L. 102–541, §405(b), substituted "that would otherwise be permitted for" for "authorized".


Subsec. (b)(5). Pub. L. 100–88 substituted "commodore" for "commodore admiral" in two places.


Effective Date of 2011 Amendment


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


Implementation of 2000 Amendments


"(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 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)."

"(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] 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 526(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(d) of the National Defense Authorization Act for Fiscal Year 1987 (Public Law 99–661; 100 Stat. 3889) [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 relat-
ing 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


Review of Active Duty and Reserve General and Flag Officer Authorizations


"(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 officer positions 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


Temporary Exclusion of Superintendent of Naval Academy From Counting Toward Number of Senior Admirals Authorized To Be on Active Duty

Section 606 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 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:


§ 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 324 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 pursuant 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.

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
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 those 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).
Subsec. (a)(4), Pub. L. 110–417, § 503(b), substituted “80” for “98”.
Subsec. (a)(5), Pub. L. 110–417, § 503(b), substituted “Secretary of Defense” for “Secretary of the Army”, “100” for “150”, and “150” for “200”.
Subsec. (d)(1), Pub. L. 109–163, § 1324(c), substituted “‘5’ for ‘12’”.
Subsec. (d)(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, § 1324(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, § 516, 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. (e), Pub. L. 109–163, § 503(b)(1), added subsec. (e).
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.”
As added by Pub. L. 107–314, § 495(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 Services 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)(C), 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”. 1996—Subsec. (b)(2), Pub. L. 105–261 substituted “October 1, 2002” for “October 1, 1998”. Subsec. (a)(1) to (3), Pub. L. 104–106, § 1503(a)(3)(A), added pars. (1) to (3) and struck out former par. (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 “98”.
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 “and” 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).
Subsec. (d), (e), Pub. L. 103–337, § 512, added subsec. (d) and (e).
1992—Subsec. (b), Pub. L. 102–484, § 403(b), inserted heading.
Subsec. (e), 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 1990 AMENDMENT
Section 403(a) of Pub. L. 101–510 provided that the amendment made by that section is effective Sept. 30, 1991.
§ 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.


REFERENCES IN TEXT


Title II of the National Emergencies Act is classified generally to subchapter II (§1621 et seq.) of chapter 34 Title II of the National Emergencies Act is classified generally to subchapter II (§1621 et seq.) of chapter 34 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.

Effective Date of 1994 Amendment

Amendment by Pub. L. 103–337 effective Dec. 1, 1994, except as otherwise provided, see section 1641 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. 12996, §§ 2, 3, Dec. 9, 1982, 47 F.R. 55897, 55898, set out as a note under section 301 of Title 3, The President.

§ 528. Officers serving in certain intelligence positions: military status; exclusion from 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 Director of the Central Intelligence Agency is held by an officer of the armed forces, the officer serving in that position, while so serving, shall be excluded from the limitations in sections 525 and 526 of this title. However, if both such positions are held by an officer of the armed forces, only one such officer may be excluded from those limitation while so serving.

(c) ASSOCIATE DIRECTOR OF MILITARY AFFAIRS, CIA.—An officer of the armed forces serving in the position of Associate Director of Military Affairs, Central Intelligence Agency, or any successor position, while serving in that position, shall be excluded from the limitations in sections 525 and 526 of this title.
signed to 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, while serving in that position, shall be excluded from the limitations in sections 525 and 526 of this title, except that not more than five such officers may be so excluded 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).

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...