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 Repealed.]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 section 611 of this title], 598 [now section 612 of this title], 603, 628, 644, 741, 1166, 1174, 1305, 1404, 1406, 5414, 5457, 5458, 5501 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 566, 602, and 745 of this title, and enacting provisions set out as notes under sections 555 and 571 of this title and section 1009 of [Title 37] and the amendments made by this title shall take effect on February 1, 1992."

EFFECTIVE DATE

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

TRANSITION PROVISIONS UNDER DEFENSE OFFICER PERSONNEL MANAGEMENT ACT

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

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

Pub. L. 106–484, div. A, title V, § 502, Oct. 23, 1992, 106 Stat. 2402, directed the Secretary of Defense to provide for a fully 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. 100–180, div. A, title IV, § 402(c), Sept. 29, 1988, 102 Stat. 1023, 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, 106,277; 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."


"(a) AUTHORITY TO INCREASE FOR FISCAL YEAR 1988.—Subject to subsection (b), the Secretary of Defense may
increase by not more than 1 percentage point (to not more than 98 percent) the percentage limitation prescribed in section 403(a) of the National Defense Authorization Act for Fiscal Year 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, 1988.

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

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

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


“(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>Percentage of total commissioned officers serving on active duty as of September 30, 1986:</td>
</tr>
<tr>
<td>September 30, 1987</td>
<td>99</td>
</tr>
<tr>
<td>September 30, 1988</td>
<td>97</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), 10311, 10302 through 10305, 12901(a), and 12902 of title 10, United States Code, or under section 708 of title 32, United States Code;

“(C) on active duty under section 12301(d) of title 10, United States Code, in connection with organizing, administering, recruiting, instructing, or training the reserve components or the National Guard;

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

“(E) ordered to active duty under section 12304 of title 10, United States Code; or

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

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

“(3) Reserve or retired officers on active duty under section 10(b) of the Military Selective Service Act (50 U.S.C. App. 460(b)(2)) for the administration of the Selective Service System.

“(c) AFFORPMENT 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.”


**Effective Date of Repeal**

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

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

(a)(1) Except as provided in subdivision (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 subdivision (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:

<table>
<thead>
<tr>
<th>Total number of commissioned officers (excluding officers in categories specified in subdivision (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>-------</td>
<td>--------------------</td>
</tr>
<tr>
<td>Army: 20,000 ..........</td>
<td>7,768</td>
</tr>
<tr>
<td>25,000 ..........</td>
<td>8,689</td>
</tr>
<tr>
<td>30,000 ..........</td>
<td>9,611</td>
</tr>
<tr>
<td>35,000 ..........</td>
<td>10,532</td>
</tr>
<tr>
<td>40,000 ..........</td>
<td>11,454</td>
</tr>
<tr>
<td>45,000 ..........</td>
<td>12,375</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>24,354</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>Air Force: 35,000 ..........</td>
<td>9,216</td>
</tr>
<tr>
<td>40,000 ..........</td>
<td>10,025</td>
</tr>
<tr>
<td>45,000 ..........</td>
<td>10,835</td>
</tr>
</tbody>
</table>
§ 523

TITLe 10—ARMED FORCES

Page 270

Total number of commissioned officers (excluding officers in categories specified in subsection (b)) on active duty:

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

(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 officers</th>
<th>Number of officers who may be serving on active duty in grade of:</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Lieutenant</td>
</tr>
<tr>
<td>NAVY:</td>
<td></td>
</tr>
<tr>
<td>30,000</td>
<td>7,698</td>
</tr>
<tr>
<td>35,000</td>
<td>8,189</td>
</tr>
<tr>
<td>40,000</td>
<td>8,680</td>
</tr>
<tr>
<td>45,000</td>
<td>9,172</td>
</tr>
<tr>
<td>50,000</td>
<td>9,663</td>
</tr>
<tr>
<td>55,000</td>
<td>10,155</td>
</tr>
<tr>
<td>60,000</td>
<td>10,646</td>
</tr>
<tr>
<td>65,000</td>
<td>11,136</td>
</tr>
<tr>
<td>70,000</td>
<td>11,628</td>
</tr>
<tr>
<td>75,000</td>
<td>12,118</td>
</tr>
<tr>
<td>80,000</td>
<td>12,609</td>
</tr>
<tr>
<td>85,000</td>
<td>13,100</td>
</tr>
<tr>
<td>90,000</td>
<td>13,591</td>
</tr>
<tr>
<td>95,000</td>
<td>14,081</td>
</tr>
<tr>
<td>100,000</td>
<td>14,571</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(c) 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, § 904, in table, increased number of officers authorized to serve on active duty in the Army in the grade of Major to 7,768, 8,689,
9,611, 10,532, 11,454, 12,375, 13,297, 14,218, 15,140, 16,061, 16,983, 17,903, 18,825, 19,746, 20,668, 21,589, 22,511, 24,354, 26,197, 28,040, and 35,412 from 6,998, 7,839, 8,231, 8,922, 9,614, 10,306, 10,997, 11,688, 12,390, 13,071, 13,763, 14,454, 15,146, 15,837, 16,529, 17,220, 17,912, 19,205, 20,678, 22,061, and 27,593, respectively.


"(1) Reserve officers—

"(A) on active duty for training;
"(B) on active duty under section 10211, 10302 through 10305, or 12402 of this title; or
"(C) on active duty under section 12301(d) of this title in connection with organizing, administrating, recruiting, instructing, or training the reserve components;"

"(D) on active duty to pursue special work;
"(E) ordered to active duty under section 12303 of this title; or
"(F) on full-time National Guard duty.""

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


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

Section 511(b) of Pub. L. 99–145 provided that: "The amendments made by subsection (a) of this section shall take effect on October 1, 1989."

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

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

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


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. 1635, 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

[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 1691 of this title.

EFFECTIVE DATE OF 1985 AMENDMENT

Section 511(b) of Pub. L. 99–145 provided that: "The amendments made by subsection (a) of this section shall take effect on October 1, 1989."
authorized to be serving on active duty during fiscal year 1990 was reduced by 250.

Ceilings on Commissioned Officers on Active Duty

Pub. L. 95–79, title VIII, §811(a), July 30, 1977, 91 Stat. 335, as amended by Pub. L. 96–107, title VIII, §817, Nov. 9, 1979, 93 Stat. 818; Pub. L. 97–86, title VI, §602, Dec. 1, 1981, 95 Stat. 1110, which provided that after Oct. 1, 1981, the total number of commissioned officers on active duty in the Army, Air Force, and Marine Corps above the grade of colonel, and on active duty in the Navy above the grade of captain, could not exceed 1,073, and that in time of war, or of national emergency declared by Congress, the President could suspend the operation of this provision, was repealed and restated in section 526 of this title by Pub. L. 100–370, §1(b)(1)(B), Dec. 18, 1987, 101 Stat. 1373.

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

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

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

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

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

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

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

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

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

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

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

(1) An officer released from a joint duty assignment, but only during the 60-day period beginning on the date the officer departs the joint duty assignment, except that the Secretary of Defense may authorize the Secretary of a military department to extend the 60-day period by an additional 120 days, but no more than 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 Air Force 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, and Marine Corps in the grades of lieutenant general and general in excess of the applicable numbers determined under this section if each such appointment is made in conjunction with an offsetting reduction under paragraph (2); and

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

(2) For each appointment made under the authority of paragraph (1) in the Army, Air Force, or Marine Corps in the 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 subsection 601(a) of this title or by law to carry out the functions of the first position to which he was appointed to serve on active duty for purposes of chapter 38 of this title and who would otherwise be permitted for that increase shall no longer be in effect.

(3) Not later than 30 days after authorizing a new appointment, the Secretary of Defense shall include with such notice a statement of the reason for such authorization.

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

2008—Subsec. (a). Pub. L. 110–417, §504(b), designated existing provisions as par. (1) and added par. (2).
(b)(1). Pub. L. 110–417, §503(d)(1), substituted "the Army or Air Force, or more than 51 percent of the general officers of the Marine Corps," for "that armed force".
Pub. L. 110–181, §543(d), substituted "16.3 percent" for "15.7 percent" wherever appearing.
Subsec. (b)(2)(B). Pub. L. 110–181, §504(b), substituted "17.5 percent" for "17.2 percent".
Subsec. (c)(2). Pub. L. 110–181, §501(b), added par. (2) and substituted "of the Army or Air Force, or Marine Corps," for "Army, Air Force, or Marine Corps" and "15.7 percent" for "15 percent" and, in second sentence, substituted "of the Army and Air Force," for "Army, Air Force, or Marine Corps" and "15.7 percent" for "15 percent" and inserted "of the Army or Air Force" after "general officers".
Subsec. (b)(2). Pub. L. 110–181, §503(d)(2)(B), substituted "17.5 percent" for "16.2 percent".
Subsec. (e)(2). Pub. L. 110–181, §501(b), added par. (2) and substituted "that would otherwise be permitted for" for "authorized".
"(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)).
"(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 under this section [amending 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)).
"(5) For purposes of this subsection, the term "reserve component chief position" means a position specified in sections 3038, 5143, 5144, or 8038 of title 10, United States Code, or the position of Director, Army National Guard or Director, Air National Guard under section 10506(a)(1) of such title.

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


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

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

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

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

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

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

(2) A general or flag officer assigned to a temporary joint duty assignment as described in paragraph (1) may not be excluded under this subsection from the limitations in subsection (a) for a period of longer than one year.

(h) EXCLUSION OF OFFICERS DEPARTING FROM JOINT DUTY ASSIGNMENTS.—The limitations in subsection (a) do not apply to an officer relying on a temporary joint duty assignment, but only during the 60-day period beginning on the date the officer departs the joint duty assignment. The Secretary of defense may authorize the Secretary of a military department to extend the 60-day period by an additional 120 days, except that no more than three officers on active duty from each armed force may be covered by an extension under this section at the same time.


HISTORICAL AND REVISION NOTES


Present law (section 811(a) of Public Law 95–79, as amended) provides that the authority to suspend the limitation on the number of general and flag officers who may be serving on active duty applies during war or national emergency. In codifying the limitation (in section 526 of title 10 as proposed to be added by section 1(b) of the bill), the committee determined that the same war and emergency waiver authority as applies to
other limitations on the number of officers on active duty under the existing 10 U.S.C. 526 (redesignated as 10 U.S.C. 527 by the bill) should apply with respect to this limitation and accordingly amended the suspension authority in present law to include the codified general and flag officer limitation. This authority is slightly different from the waiver authority in the source law in that the suspension would expire 2 years after it takes effect or 1 year after the end of the war or national emergency, whichever occurs first, rather than upon termination of the war or emergency.

PRIOR PROVISIONS

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

AMENDMENTS


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)(2), added subsec. (g) and (h).


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

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

Pub. L. 110–181, § 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).


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, 2003.”


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). Pub. L. 106–65, § 553, added par. (2) and redesignated former par. (2) as (3).

Subsec. (c)(1). Pub. L. 106–65, § 1007(1), substituted “and the Committee on Armed Services” for “and the Committee on National Security”.


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

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

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

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

Subsec. (a)(4). Pub. L. 104–201 substituted “80” for “65”.

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

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


Subsec. (d)(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. (d)(v). Pub. L. 103–337, § 406, added subsec. (d) and (e).


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

1990—Pub. L. 101–510 amended section generally. Prior to amendment, text read as follows: “The total number of general officers on active duty in the Army, Air Force, and Marine Corps and flag officers on active duty in the Navy may not exceed 1,073.”

EFFECTIVE DATE OF 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

The National Emergencies Act, referred to in text, is Pub. L. 94–412, Sept. 14, 1976, 90 Stat. 1255, as amended. Title II of the National Emergencies Act is classified generally to subchapter II (§1621 et seq.) of chapter 34 of Title 50, War and National Defense. For complete classification of this Act to the Code, see Short Title note set out under section 1601 of Title 50 and Tables.

AMENDMENTS


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

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103–337 effective Dec. 1, 1994, except as otherwise provided, see section 1691 of Pub. L. 103–337, set out as an Effective Date note under section 1601 of this title.

DELEGATION OF FUNCTIONS

Functions of President under this section to suspend operation of sections 523, 524 (now 12011), and 525 of this title, relating to authorized strength of commissioned officers, delegated to Secretary of Defense to perform during a time of war or national emergency, without approval, ratification, or other action by President, and with authority for Secretary to redelegate, provided that, during a national emergency declared by President, the exercise of any such authority be specifically directed by President in accordance with section 1631 of Title 50, War and National Defense, and that Secretary ensure that actions taken pursuant to any authority so delegated be accounted for as required by section 1641 of Title 50, see Ex. Ord. No. 12966, §§2, 3, Dec. 9, 1982, 47 F.R. 55887, 55888, set out as a note under section 301 of Title 3, The President.

DELIGATION OF AUTHORITY

Authority of President under this section as invoked by sections 2 and 3 of Ex. Ord. No. 12223, Sept. 14, 2001, 66 F.R. 43201, as amended, delegated to Secretary of Defense by section 4 of Ex. Ord. No. 12323, set out as a note under section 12302 of this title.

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

Pub. L. 102–25, title II, §§201(b), 202, 206(b), Apr. 6, 1991, 105 Stat. 79, 80, authorized Secretary of a military department to suspend, for fiscal year 1991, the operation of any provision of section 517, 523, 524, 525, or 526 of this title with respect to that military department, that such Secretary may exercise such authority only after submission to the congressional defense committees of a certification in writing that such authority is necessary because of personnel actions associated with Operation Desert Storm, and that such authority is in addition to the authority provided in this section.

§ 528. Officers serving in certain intelligence positions; military status; 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.

(d) OFFICERS SERVING IN OFFICE OF DNI.—A general or flag officer of the armed forces as-
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).


PRIOR PROVISIONS


AMENDMENTS


2005—Pub. L. 109–193 amended section catchline and text generally. Prior to amendment, text read as follows:

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

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

“(1) Director of Central Intelligence.

“(2) Deputy Director of Central Intelligence.

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

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

“(a) EXCLUSION OF OFFICER SERVING IN CERTAIN CIA POSITIONS.—When either of the individuals serving in a position specified in subsection (b) is an officer of the armed forces, one of those officers, while serving in that position, shall be excluded from the limitations in sections 525 and 530 of this title.

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

“(1) Director of the Central Intelligence Agency.

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

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

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

Sec. 531. Original appointments of commissioned officers.

532. Qualifications for original appointment as a commissioned officer.

533. Service credit upon original appointment as a commissioned officer.


[555 to 565. Repealed.]

AMENDMENTS


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