

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

(a) **LIMITATIONS.**—The number of general officers on active duty in the Army, Air Force, Marine Corps, and Space Force, 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, 219.
- (2) For the Navy, 150.
- (3) For the Air Force, 171.
- (4) For the Marine Corps, 64.
- (5) For the Space Force, 21.

(b) **LIMITED EXCLUSION FOR JOINT DUTY REQUIREMENTS.**—

(1) **IN GENERAL.**—The Secretary of Defense may designate up to 232 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).

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

- (A) For the Army, 75.
- (B) For the Navy, 53.
- (C) For the Air Force, 68.
- (D) For the Marine Corps, 17.
- (E) For the Space Force, 6.

(c) **EXCLUSION OF CERTAIN OFFICERS OF RESERVE COMPONENTS.**—The limitations of this section do not apply to the following:

(1) A general or flag officer of a reserve component who is on active duty—

- (A) for training; or
- (B) under a call or order specifying a period of less than 180 days.

(2)(A) A general or flag officer of a reserve component who is authorized by the Secretary of the military department concerned to serve on active duty for a period of at least 180 days and not longer than 365 days.

(B) The Secretary of the military department concerned may authorize a number, determined under subparagraph (C), of officers in the reserve component of each armed force under the jurisdiction of that Secretary to serve as described in subparagraph (A).

(C) Each number described in subparagraph (B) may not exceed 10 percent of the number of general or flag officers, as the case may be, authorized to serve in the armed force concerned under section 12004 of this title. In determining a number under this subparagraph, any fraction shall be rounded down to the next whole number that is greater than zero.

(3)(A) A general or flag officer of a reserve component who is on active duty for a period longer than 365 days and not longer than three years.

(B) The number of officers described in subparagraph (A) who do not serve in a position that is a joint duty assignment for purposes of chapter 38 of this title may not exceed five per armed force, unless authorized by the Secretary of Defense.

(d) **EXCLUSION OF CERTAIN OFFICERS PENDING SEPARATION OR RETIREMENT OR BETWEEN SENIOR POSITIONS.**—The limitations of this section do not apply to—

(1) an officer of an 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; or

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

(e) **TEMPORARY EXCLUSION FOR ASSIGNMENT TO CERTAIN TEMPORARY BILLETS.**—

(1) **IN GENERAL.**—The limitations in subsection (a) do not apply to a general officer or flag officer assigned to a temporary joint duty assignment designated by the Secretary of Defense.

(2) **DURATION OF EXCLUSION.**—A general officer 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.

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

(g) **EXCLUSION OF MEDICAL OFFICER OF MARINE CORPS.**—The limitations of this section do not apply to the flag officer who is serving as the Medical Officer of the Marine Corps.

(h) **SECRETARY OF DEFENSE ADAPTIVE FORCE ACCOUNT.**—The limitations in subsection (a) and in section 525(a) of this title do not apply to a general officer or flag officer assigned to the Secretary of Defense Adaptive Force Account as designated by the Secretary of Defense. The total number of positions designated as the Secretary of Defense Adaptive Force Account for purposes of this subsection shall not exceed 35.

(i) **ACTIVE-DUTY BASELINE.**—

(1) **NOTICE AND WAIT REQUIREMENTS.**—If the Secretary of a military department proposes an action that would increase above the baseline the number of general officers or flag officers of an armed force under the jurisdiction of that Secretary who would be on active duty and would count against the statutory limit applicable to that armed force under subsection (a), the action shall not take effect until after the end of the 60-calendar day pe-

riod beginning on the date on which the Secretary provides notice of the proposed action, including the rationale for the action, to the Committees on Armed Services of the Senate and the House of Representatives.

(2) **BASELINE DEFINED.**—In paragraph (1), the term “baseline” for an armed force means the lower of—

(A) the statutory limit of general officers or flag officers of that armed force under subsection (a); or

(B) the actual number of general officers or flag officers of that armed force who, as of January 1, 2023, counted toward the statutory limit of general officers or flag officers of that armed force under subsection (a).

(j) **JOINT DUTY ASSIGNMENT BASELINE.**—

(1) **NOTICE AND WAIT REQUIREMENT.**—If the Secretary of Defense, the Secretary of a military department, or the Chairman of the Joint Chiefs of Staff proposes an action that would increase above the baseline the number of general officers and flag officers of the armed forces in joint duty assignments who count against the statutory limit under subsection (b)(1), the action shall not take effect until after the end of the 60-calendar day period beginning on the date on which such Secretary or the Chairman, as the case may be, provides notice of the proposed action, including the rationale for the action, to the Committees on Armed Services of the Senate and the House of Representatives.

(2) **BASELINE DEFINED.**—In paragraph (1), the term “baseline” means the lower of—

(A) the statutory limit on general officer and flag officer positions that are joint duty assignments under subsection (b)(1); or

(B) the actual number of general officers and flag officers who, as of January 1, 2023, were in joint duty assignments counted toward the statutory limit under subsection (b)(1).

(k) **ANNUAL REPORT.**—Not later than March 1 each year, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report specifying the following:

(1) The numbers of general officers and flag officers who, as of January 1 of the calendar year in which the report is submitted, counted toward the service-specific limits of subsection (a).

(2) The number of general officers and flag officers in joint duty assignments who, as of such January 1, counted toward the statutory limit under subsection (b)(1).

(l) **TRANSFER OF AUTHORIZATIONS AMONG THE MILITARY SERVICES.**—(1) The Secretary of Defense may increase the maximum number of brigadier generals or major generals in the Army, Air Force, Marine Corps, or Space Force, or rear admirals (lower half) or rear admirals in the Navy, allowed under subsection (a) and section 525 of this title and the President may appoint officers in the equivalent grades equal to the number increased by the Secretary of Defense if each appointment is made in conjunction with an offsetting reduction under paragraph (2).

(2) For each increase and appointment made under the authority of paragraph (1) in the Army, Navy, Air Force, Marine Corps, or Space Force, 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 increase and appointment is made, the Secretary of Defense shall specify the armed force in which the reduction required by this paragraph is to be made.

(3) The total number of general officers and flag officers increased under paragraph (1), combined with the total number of general officers and flag officers increased under section 526(k)(1) of this title, may not exceed 15 at any one time.

(4) The Secretary may not increase the maximum number of general officers or flag officers under paragraph (1) until the date that is 30 days after the date on which the Secretary provides, to the Committees on Armed Services of the Senate and the House of Representatives, written notice of—

(A) such increase; and

(B) each offsetting reduction under paragraph (2), specifying the armed force and billet so reduced.

(Added Pub. L. 114–328, div. A, title V, § 501(h)(1), Dec. 23, 2016, 130 Stat. 2100, § 526a; amended Pub. L. 116–283, div. A, title V, § 501(a), Jan. 1, 2021, 134 Stat. 3562; Pub. L. 117–81, div. A, title V, § 501(b), Dec. 27, 2021, 135 Stat. 1679; Pub. L. 117–263, div. A, title V, § 504, Dec. 23, 2022, 136 Stat. 2558; renumbered § 526 and amended Pub. L. 118–31, div. A, title V, § 501(a)(2), (4), (b), title XVIII, § 1801(a)(9), Dec. 22, 2023, 137 Stat. 240, 684; Pub. L. 118–159, div. A, title V, §§ 502(a), 509B(c), Dec. 23, 2024, 138 Stat. 1868, 1873.)

Editorial Notes

PRIOR PROVISIONS

A prior section 526, added Pub. L. 100–370, § 1(b)(1)(B), July 19, 1988, 102 Stat. 840; amended Pub. L. 101–510, div. A, title IV, § 403(a), Nov. 5, 1990, 104 Stat. 1545; Pub. L. 102–484, div. A, title IV, § 403, Oct. 23, 1992, 106 Stat. 2398; Pub. L. 103–337, div. A, title IV, § 404, title V, § 512, Oct. 5, 1994, 108 Stat. 2744, 2752; Pub. L. 104–106, div. A, title XV, §§ 1502(a)(1), 1503(a)(3), Feb. 10, 1996, 110 Stat. 502, 510; Pub. L. 104–201, div. A, title IV, § 405, Sept. 23, 1996, 110 Stat. 2506; Pub. L. 105–261, div. A, title IV, § 405, Oct. 17, 1998, 112 Stat. 1996; Pub. L. 106–65, div. A, title V, § 553, title X, § 1067(1), Oct. 5, 1999, 113 Stat. 615, 774; Pub. L. 107–314, div. A, title IV, § 405(c), title X, § 1041(a)(3), Dec. 2, 2002, 116 Stat. 2526, 2645; Pub. L. 108–136, div. A, title V, § 504(c), Nov. 24, 2003, 117 Stat. 1457; Pub. L. 109–163, div. A, title V, §§ 503(b), 510, 515(b)(1)(C), Jan. 6, 2006, 119 Stat. 3226, 3231, 3233; Pub. L. 109–364, div. A, title V, § 507(c), Oct. 17, 2006, 120 Stat. 2180; Pub. L. 110–181, div. A, title V, § 502, title XVIII, § 1824(c), Jan. 28, 2008, 122 Stat. 95, 501; Pub. L. 110–417, [div. A], title V, §§ 503(a)–(c), 525, Oct. 14, 2008, 122 Stat. 4433, 4448; Pub. L. 111–84, div. A, title V, § 502(e)–(g), Oct. 28, 2009, 123 Stat. 2275, 2276; Pub. L. 112–81, div. A, title V, § 502(b)(1), (c)(1), Dec. 31, 2011, 125 Stat. 1387; Pub. L. 112–239, div. A, title V, § 501(a), Jan. 2, 2013, 126 Stat. 1714; Pub. L. 113–66, div. A, title V, § 501(a), (b)(2), Dec. 26, 2013, 127 Stat. 748, 749; Pub. L. 114–328, div. A, title V, §§ 501(h)(2), 503(b), Dec. 23, 2016, 130 Stat. 2102, 2107; Pub. L. 116–92, div. A, title XVII, § 1731(a)(17), Dec. 20, 2019, 133 Stat. 1813; Pub. L. 116–283, div. A, title V, § 501(c)(2), Jan. 1, 2021, 134 Stat. 3563; Pub. L. 117–81, div. A, title V, § 501(a), Dec. 27, 2021, 135 Stat. 1678, related to authorized strength 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, prior to repeal by Pub. L. 118-31, div. A, title V, § 501(a)(1), Dec. 22, 2023, 137 Stat. 240.

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

AMENDMENTS

2024—Subsecs. (g), (h). Pub. L. 118-159, § 509(c), added subsec. (g) and redesignated subsec. (g), as added by section 502(a)(2), as (h).

Pub. L. 118-159, § 502(a)(2), added subsec. (g), which was subsequently redesignated (h).

Subsecs. (i) to (l). Pub. L. 118-159, §§ 502(a)(1), 509B(c)(1), successively redesignated subsecs. (g) to (j) first as (h) to (k), then as (i) to (l), respectively.

2023—Pub. L. 118-31, § 501(a)(4), struck out “after December 31, 2022” after “Authorized strength” in section catchline.

Pub. L. 118-31, § 501(a)(2), renumbered section 526a of this title as this section.

Subsec. (a). Pub. L. 118-31, § 501(b)(1)(A), struck out “after December 31, 2022,” after “in the Navy,” in introductory provisions.

Subsec. (a)(1). Pub. L. 118-31, § 501(b)(1)(B), substituted “219” for “218”.

Subsec. (a)(2). Pub. L. 118-31, § 501(b)(1)(C), substituted “150” for “149”.

Subsec. (a)(3). Pub. L. 118-31, § 501(b)(1)(D), substituted “171” for “170”.

Subsec. (a)(4). Pub. L. 118-31, § 501(b)(1)(E), substituted “64” for “62”.

Subsecs. (i), (j). Pub. L. 118-31, §§ 501(b)(2), 1801(a)(9), amended section identically, redesignating subsec. (i) relating to transfer of authorizations among the military services as (j).

2022—Subsec. (a). Pub. L. 117-263, § 504(1)(A), substituted “Marine Corps, and Space Force” for “and Marine Corps” in introductory provisions.

Subsec. (a)(1). Pub. L. 117-263, § 504(1)(B), substituted “218” for “220”.

Subsec. (a)(2). Pub. L. 117-263, § 504(1)(C), substituted “149” for “151”.

Subsec. (a)(3). Pub. L. 117-263, § 504(1)(D), substituted “170” for “187”.

Subsec. (a)(5). Pub. L. 117-263, § 504(1)(E), added par. (5).

Subsec. (b)(2)(E). Pub. L. 117-263, § 504(2), added subpar. (E).

2021—Subsecs. (c) to (h). Pub. L. 116-283, § 501(a), added subsec. (c) and redesignated former subsecs. (c) to (g) as (d) to (h), respectively. Former subsec. (h) redesignated (i).

Subsec. (i). Pub. L. 117-81 added subsec. (i) relating to transfer of authorizations among military services.

Pub. L. 116-283, § 501(a)(1), redesignated subsec. (h) as (i) relating to annual report.

[§ 526a. Renumbered § 526]

Statutory Notes and Related Subsidiaries

EXCLUSION OF OFFICERS SERVING AS LEAD SPECIAL TRIAL COUNSEL FROM LIMITATIONS ON AUTHORIZED STRENGTHS FOR GENERAL AND FLAG OFFICERS

Pub. L. 117-263, div. A, title V, § 506, Dec. 23, 2022, 136 Stat. 2558, which related to certain general or flag officers serving in the position of lead special trial counsel pursuant to an appointment under section 1044f(a)(2) of this title, was repealed by Pub. L. 118-31, div. A, title V, § 501(c), Dec. 22, 2023, 137 Stat. 240.

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

In time of war, or of national emergency declared by Congress or the President after November 30, 1980, the President may suspend the operation of any provision of section 523, 525, or

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

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

Editorial Notes

REFERENCES IN TEXT

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

AMENDMENTS

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

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

Statutory Notes and Related Subsidiaries

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

Section effective Sept. 15, 1981, but the authority to prescribe regulations under this section 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.

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

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

Executive Documents

DELEGATION OF FUNCTIONS

Functions of President under this section to suspend operation of sections 523, 524 [now 12011], and 525 of this