

## 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

Pub. L. 99-145, title V, §511(b), Nov. 8, 1985, 99 Stat. 623, 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

Pub. L. 103-337, div. A, title IV, §402, Oct. 5, 1994, 108 Stat. 2743, provided that number of officers of the Army authorized under subsec. (a)(1) of this section to be serving on active duty in grades of major and lieutenant colonel for fiscal years 1995 through 1997 was limited to numbers set forth in table prior to repeal by Pub. L. 104-201, div. A, title IV, §403(c)(2), Sept. 23, 1996, 110 Stat. 2506.

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

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

## TEMPORARY INCREASE IN OFFICER GRADE LIMITATIONS

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

## TEMPORARY REDUCTION IN NUMBER OF AIR FORCE COLONELS

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

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

## CEILINGS ON COMMISSIONED OFFICERS ON ACTIVE DUTY

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

## TRANSITION PROVISIONS UNDER DEFENSE OFFICER PERSONNEL MANAGEMENT ACT

For provisions increasing for the fiscal year ending on Sept. 30, 1981, the maximum number of officers authorized by this section to be serving on active duty, see section 627 of Pub. L. 96-513, set out as a note under section 611 of this title.

## [§ 524. Renumbered § 12011]

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

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

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

(A) 7 officers in the grade of general;

(B) 45 officers in a grade above the grade of major general; or

(C) 90 officers in the grade of major general;

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

(A) 9 officers in the grade of general;

(B) 43 officers in a grade above the grade of major general; or

(C) 73 officers in the grade of major general;

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

(A) 6 officers in the grade of admiral;

(B) 32 officers in a grade above the grade of rear admiral; or

(C) 50 officers in the grade of rear admiral;

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

(A) 2 officers in the grade of general;

(B) 15 officers in a grade above the grade of major general; or

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

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

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

may be on active duty who are excluded under this paragraph.

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

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

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

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

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

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

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

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

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

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

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

(2) At the discretion of the Secretary of Defense, an officer of that armed force who has

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

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

(g)(1) The limitations of this section do not apply to a reserve component general or flag officer who is on active duty for a period in excess of 365 days, but not to exceed three years, except that the number of officers from each reserve component who are covered by this subsection and are not serving in a position that is a joint duty assignment for purposes of chapter 38 of this title may not exceed 5 per component, unless authorized by the Secretary of Defense.

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

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

AMENDMENT OF SUBSECTION (a)

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

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

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

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

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

See 2011 Amendment note below.

#### AMENDMENTS

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Subsec. (b)(8). Pub. L. 107–314, § 404(a), added par. (8).

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

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

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

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

Subsec. (b)(7). Pub. L. 106–65, § 532(b), added par. (7).

1998—Subsec. (b)(4)(B). Pub. L. 105–261, § 404, substituted “seven” for “six”.

Subsec. (b)(6). Pub. L. 105–261, § 406, added par. (6).

1996—Subsec. (b)(5)(C). Pub. L. 104–201 substituted “September 30, 2000” for “September 30, 1997”.

Subsec. (d). Pub. L. 104–106 added subsec. (d).

1994—Subsec. (b)(5). Pub. L. 103–337 added par. (5).

1990—Subsec. (b)(3). Pub. L. 101–510, § 405(b), substituted “that would otherwise be permitted for” for “authorized”.

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

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

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

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

#### EFFECTIVE DATE OF 2011 AMENDMENT

Pub. L. 112–81, div. A, title V, § 502(a)(2), Dec. 31, 2011, 125 Stat. 1387, provided that: “The amendment made by

paragraph (1) [amending this section] shall take effect on January 1, 2012.”

Pub. L. 112-81, div. A, title V, § 502(b)(3), Dec. 31, 2011, 125 Stat. 1387, as amended by Pub. L. 112-239, div. A, title V, § 501(c), Jan. 2, 2013, 126 Stat. 1714, provided that:

“(A) IN GENERAL.—Except as provided in subparagraph (B), the amendments made by this subsection [amending this section and section 526 of this title] shall take effect on October 1, 2013.

“(B) MARINE CORPS OFFICERS.—The amendments made by paragraphs (1)(A)(iv) [amending section 526 of this title] and (2)(D) [amending this section] shall take effect on October 1, 2012.”

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

#### EFFECTIVE DATE OF 2002 AMENDMENT

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

#### EFFECTIVE DATE OF 1981 AMENDMENT

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

#### IMPLEMENTATION OF 2000 AMENDMENTS

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

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

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

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

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

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

#### SAVINGS PROVISION

Pub. L. 100-180, div. A, title V, § 511(b), Dec. 4, 1987, 101 Stat. 1088, provided that: “An officer of the Armed Forces on active duty holding an appointment in the

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

#### TRANSFER OF FUNCTIONS

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

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

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

#### REVIEW OF ACTIVE DUTY AND RESERVE GENERAL AND FLAG OFFICER AUTHORIZATIONS

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

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

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

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

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

#### REPORT ON MANAGEMENT OF SENIOR GENERAL AND FLAG OFFICER POSITIONS

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

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

Pub. L. 103-337, div. A, title IV, § 406, Oct. 5, 1994, 108 Stat. 2746, provided that: “The officer serving as Superintendent of the United States Naval Academy on the date of the enactment of this Act [Oct. 5, 1994], while so serving, shall not be counted for purposes of the limitations contained in [former] section 525(b)(2) of title 10, United States Code.”

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

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

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

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

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

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

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

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

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

(a) LIMITATIONS.—The number of general officers on active duty in the Army, Air Force, and Marine Corps, and the numbers 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, 162.
- (3) For the Air Force, 208.
- (4) For the Marine Corps, 60.

(b) LIMITED EXCLUSION FOR JOINT DUTY REQUIREMENTS.—(1) The Secretary of Defense may designate up to 310 general officer and flag officer positions that are joint duty assignments for purposes of chapter 38 of this title for exclusion from the limitations in subsection (a). The Secretary of Defense shall allocate those exclusions to the armed forces based on the number of general or flag officers required from each armed force for assignment to these designated positions.

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

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

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

(A) in the grade of general or admiral may not exceed 20;

(B) in a grade above the grade of major general or rear admiral may not exceed 68; and

(C) in the grade of major general or rear admiral may not exceed 144.

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

(5)(A) The Chairman of the Joint Chiefs of Staff may designate up to 15 general and flag officer positions in the unified and specified combatant commands, and up to three general and flag officer positions on the Joint Staff, as positions to be held only by reserve component officers who are in a general or flag officer grade

below lieutenant general or vice admiral. Each position so designated shall be considered to be a joint duty assignment position for purposes of chapter 38 of this title.

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

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

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

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

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

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

(2) The limitations of this section also do not apply to a number, as specified by the Secretary of the military department concerned, of reserve component general or flag officers authorized to serve on active duty for a period of not more than 365 days. The number so specified for an armed force may not exceed the number equal to 10 percent of the authorized number of general or flag officers, as the case may be, of that