

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

Subsec. (c)(1). Pub. L. 106-65, § 1067(1), substituted “and the Committee on Armed Services” for “and the Committee on National Security”.

1998—Subsec. (b)(2). Pub. L. 105-261 substituted “October 1, 2002” for “October 1, 1998”.

1996—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 “68”.

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

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

Subsec. (d). Pub. L. 104-106, § 1503(a)(3)(C), redesignated subsec. (e) as (d). Former subsec. (d) redesignated (c).

Subsec. (d)(1). Pub. L. 104-106, § 1502(a)(1), substituted “Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives” for “Committees on Armed Services of the Senate and House of Representatives”.

Subsec. (e). Pub. L. 104-106, § 1503(a)(3)(C), redesignated subsec. (e) as (d).

1994—Subsec. (a)(4). Pub. L. 103-337, § 404, struck out “before October 1, 1995, and 61 on and after that date” after “Corps, 68”.

Subsecs. (d), (e). Pub. L. 103-337, § 512, added subsecs. (d) and (e).

1992—Subsec. (b). Pub. L. 102-484, § 403(b), inserted heading.

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 2013 AMENDMENT

Pub. L. 113-66, div. A, title V, § 501(c), Dec. 26, 2013, 127 Stat. 749, provided that: “The amendments made by this is [sic] section [amending this section] shall take effect on January 1, 2014.”

EFFECTIVE DATE OF 2011 AMENDMENT

Amendment by section 502(b)(1) of Pub. L. 112-81 effective Oct. 1, 2013, except amendment by section 502(b)(1)(A)(iv) effective Oct. 1, 2012, see section 502(b)(3) of Pub. L. 112-81, as amended, set out as a note under section 525 of this title.

Pub. L. 112-81, div. A, title V, § 502(c)(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.”

EFFECTIVE DATE OF 1990 AMENDMENT

Pub. L. 101-510, div. A, title IV, § 403(a), Nov. 5, 1990, 104 Stat. 1545, provided that the amendment made by that section is effective Sept. 30, 1991.

ACQUISITION AND CONTRACTING BILLETS

Pub. L. 110-417, [div. A], title V, § 503(e), Oct. 14, 2008, 122 Stat. 4434, provided that:

“(1) RESERVATION OF ARMY INCREASE.—The increase in the number of general officers on active duty in the Army, as authorized by the amendment made by subsection (a) [amending this section] is reserved for general officers in the Army who serve in an acquisition position.

“(2) RESERVATION OF PORTION OF INCREASE IN JOINT DUTY ASSIGNMENTS EXCLUDED FROM LIMITATION.—Of the increase in the number of general officer and flag officer joint duty assignments that may be designated for exclusion from the limitations on the number of general officers and flag officers on active duty, as authorized by the amendment made by subsection (c) [amending this section], five of the designated assignments are reserved for general officers or flag officers who serve in an acquisition position, including one assignment in the Defense Contract Management Agency.”

§ 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.)

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.

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.

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. 12396, §§ 2, 3, Dec. 9, 1982, 47 F.R. 55897, 55898, set out as a note under section 301 of Title 3, The President.

DELEGATION OF AUTHORITY

Authority of President under this section as invoked by sections 2 and 3 of Ex. Ord. No. 13223, Sept. 14, 2001, 66 F.R. 48201, as amended, delegated to Secretary of Defense by section 4 of Ex. Ord. No. 13223, set out as a note under section 12302 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.

§ 528. Officers serving in certain intelligence positions: military status; application of 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 position, so long as the officer serves in the position, shall be designated, pursuant to subsection (b) of section 526 of this title, as one of the general officer and flag officer positions to be excluded from the limitations in subsection (a) of such section.

(c) **ASSOCIATE DIRECTOR OF MILITARY AFFAIRS, CIA.**—When the position of Associate Director of Military Affairs, Central Intelligence Agency, or any successor position, is held by an officer of the armed forces, the position, so long as the officer serves in the position, shall be designated, pursuant to subsection (b) of section 526 of this title, as one of the general officer and flag officer positions to be excluded from the limitations in subsection (a) of such section.

(d) **OFFICERS SERVING IN OFFICE OF DNI.**—When 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 is held by a general officer or flag officer of the armed forces, the position, so long as the officer serves in the position, shall be designated, pursuant to subsection (b) of section 526 of this title, as one of the general officer and flag officer positions to be excluded from the limitations in subsection (a) of such section. However, not more than five of such positions may be included among the excluded positions 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