

## 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of war, or of national emergency declared by Congress, the President could suspend the operation of this provision, was repealed and restated in section 526 of this title by Pub.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) 46 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) 44 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) 33 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) 17 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; Pub. L. 114-328, div. A, title V, §503(a), Dec. 23, 2016, 130 Stat. 2107.)

#### AMENDMENTS

2016—Subsec. (a)(4)(B). Pub. L. 114-328, §503(a)(1), substituted “17” for “15”.

Subsec. (a)(4)(C). Pub. L. 114-328, §503(a)(2), substituted “22” for “23”.

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

Subsec. (a)(4)(C). Pub. L. 112-81, §502(b)(2)(D), substituted “23” for “22”.

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.

#### 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.

#### 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 [now 7038, 8083, 8084, or 9038] 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.

#### REDUCTION IN NUMBER OF GENERAL AND FLAG OFFICERS ON ACTIVE DUTY AND AUTHORIZED STRENGTH AFTER DECEMBER 31, 2022, OF SUCH GENERAL AND FLAG OFFICERS

Pub. L. 114-328, div. A, title V, § 501(a)-(g), Dec. 23, 2016, 130 Stat. 2096-2099, provided that:

“(a) REDUCTION IN NUMBER OF GENERAL AND FLAG OFFICERS BY DECEMBER 31, 2022.—

“(1) REQUIRED REDUCTION.—Except as otherwise provided by an Act enacted after the date of the enactment of this Act [Dec. 23, 2016] that expressly modifies the requirements of this paragraph, by not later than December 31, 2022, the Secretary of Defense shall reduce the number of general and flag officers on active duty by 110 from the aggregate authorized number of general and flag officers authorized by sections 525 and 526 of title 10, United States Code, as of December 31, 2015.

“(2) DISTRIBUTION OF AUTHORIZED POSITIONS.—Effective as of December 31, 2022, and reflecting the reduction required by paragraph (1), authorized general and flag officer positions shall be distributed among the Army, Navy, Air Force, Marine Corps, and joint pool as follows:

“(A) The Army is authorized 220 positions in the general officer grades.

“(B) The Navy is authorized 151 positions in the flag officer grades.

“(C) The Air Force is authorized 187 positions in the general officer grades.

“(D) The Marine Corps is authorized 62 positions in the general officer grades.

“(E) The joint pool is authorized 232 positions in the general or flag officer grades, to be distributed as follows:

“(i) 82 positions in the general officer grades from the Army.

“(ii) 60 positions in the flag officer grades from the Navy.

“(iii) 69 positions in the general officer grades from the Air Force.

“(iv) 21 positions in the general officer grades from the Marine Corps.

“(3) TEMPORARY ADDITIONAL JOINT POOL ALLOCATION.—In addition to the positions authorized by paragraph (2), the 30 general and flag officer positions designated for overseas contingency operations are authorized as an additional maximum temporary allocation to the joint pool.

“(b) PLAN TO ACHIEVE REQUIRED REDUCTION AND DISTRIBUTION.—

“(1) PLAN REQUIRED.—Utilizing the study conducted under subsection (c), the Secretary of Defense shall develop a plan to achieve, by the date specified in subsection (a)(1)—

“(A) the reduction required by such subsection in the number of general and flag officers; and

“(B) the distribution of authorized positions required by subsection (a)(2).

“(2) SUBMISSION OF PLAN.—When the budget for the Department of Defense for fiscal year 2019 is submitted to Congress pursuant to section 1105 of title 31, United States Code, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report setting forth the plan developed under this subsection.

“(3) PROGRESS REPORTS.—The Secretary of Defense shall include with the budget for the Department of Defense for each of fiscal years 2020, 2021, and 2022 a report describing and assessing the progress of the Secretary in implementing the plan developed under this subsection.

“(c) STUDY FOR PURPOSES OF PLAN.—

“(1) STUDY REQUIRED.—For purposes of complying with subsection (a) and preparing the plan required by subsection (b), the Secretary of Defense shall conduct a comprehensive and deliberate global manpower study of requirements for general and flag officers with the goal of identifying—

“(A) the requirement justification for each general or flag officer position in terms of overall force structure, scope of responsibility, command and control requirements, and force readiness and execution;

“(B) an additional 10 percent reduction in the aggregate number of authorized general officer and flag officer positions after the reductions required by subsection (a); and

“(C) an appropriate redistribution of all general officer and flag officer positions within the reductions so identified.

“(2) SUBMISSION OF STUDY RESULTS.—Not later than April 1, 2017, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report setting forth the results of the study conducted under this subsection, including the justification for general and flag officer position to be retained and the reductions identified by general and flag officer position.

“(3) INTERIM REPORT.—If practicable before the date specified in paragraph (2), the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives an interim report describing the progress made toward the completion of the study under this subsection, including—

“(A) the specific general and flag officer positions that have been evaluated;

“(B) the results of that evaluation; and

“(C) recommendations for achieving the additional 10 percent reduction in the aggregate number of authorized general officer and flag officer positions to be identified under paragraph (1)(C) and recommendations for redistribution of general and flag officer positions that have been developed to that point.

## “(d) EXCLUSIONS.—

“(1) RELATED TO JOINT DUTY ASSIGNMENTS.—For purposes of complying with subsection (a), the Secretary of Defense may exclude—

“(A) a general or flag 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 may authorize the Secretary of a military department to extend the 60-day period by an additional 120 days, but not more than three officers on active duty from each Armed Force may be covered by the additional extension at the same time; and

“(B) the number of officers required to serve in joint duty assignments for each Armed Force as authorized by the Secretary under section 526a(b) of title 10, United States Code, as added by subsection (h) of this section.

“(2) RELATED TO RELIEF FROM CHIEF OF STAFF DUTY.—For purposes of complying with subsection (a), the Secretary of Defense may exclude an officer who continues to hold the grade of general or admiral under section 601(b)(5) of title 10, United States Code, 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.

“(3) RELATED TO RETIREMENT, SEPARATION, RELEASE, OR RELIEF.—For purposes of complying with subsection (a), the Secretary of Defense may exclude the following officers:

“(A) 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.

“(B) An officer of an Armed Force who has been relieved from a position designated under section 601(a) of title 10, United States Code, 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) SECRETARIAL AUTHORITY TO GRANT EXCEPTIONS TO LIMITATIONS.—

“(1) IN GENERAL.—Subject to paragraph (2), the Secretary of Defense may alter the reduction otherwise required by subsection (a)(1) in the number of general and flag officer or the distribution of authorized positions otherwise required by subsection (a)(2) in the interest of the national security of the United States.

“(2) NOTICE TO CONGRESS OF EXCEPTIONS.—Not later than 30 days after authorizing a number of general or flag officers in excess of the number required as a result of the reduction required by subsection (a)(1) or altering the distribution of authorized positions under subsection (a)(2), the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives written notice of such exception, including a statement of the reason for such exception and the anticipated duration of the exception.

## “(f) ORDERLY TRANSITION FOR OFFICERS RECENTLY ASSIGNED TO POSITIONS TO BE ELIMINATED.—

“(1) COVERED OFFICERS.—In order to provide an orderly transition for personnel in general or flag officer positions to be eliminated pursuant to the plan prepared under subsection (b), any general or flag officer who has not completed, as of December 31, 2022, at least 24 months in a position to be eliminated pursuant to the plan may remain in the position until the last day of the month that is 24 months after the month in which the officer assumed the duties of the position.

“(2) REPORT TO CONGRESS ON COVERED OFFICERS.—The Secretary of Defense shall include in the annual

report required by section 526(j) of title 10, United States Code, in 2020 a description of the positions in which an officer will remain pursuant to paragraph (1), including the latest date on which the officer may remain in such position pursuant to that paragraph.

“(3) NOTICE TO CONGRESS ON DETACHMENT OF COVERED OFFICERS.—The Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives a notice on the date on which each officer covered by paragraph (1) is detached from the officer’s position pursuant to such paragraph.

## “(g) RELATION TO SUBSEQUENT GENERAL OR FLAG NOMINATIONS.—

“(1) NOTICE TO SENATE WITH NOMINATION.—In order to help achieve the requirements of the plan required by subsection (b), effective 30 days after the commencement of the implementation of the plan, the Secretary of Defense shall include with each nomination of an officer to a grade above colonel or captain (in the case of the Navy) that is forwarded by the President to the Senate for appointment, by and with the advice and consent of the Senate, a certification to the Committee on Armed Services of the Senate that the appointment of the officer to the grade concerned will not interfere with achieving the reduction required by subsection (a)(1) in the number of general and flag officer positions or the distribution of authorized positions required by subsection (a)(2).

“(2) IMPLEMENTATION.—Not later than 120 days after the date of the submission of the plan required by subsection (b), the Secretary of Defense shall revise applicable guidance of the Department of Defense on general and flag officer authorizations in order to ensure that—

“(A) the achievement of the reductions required pursuant to subsection (a) is incorporated into the planning for the execution of promotions by the military departments and for the joint pool;

“(B) to the extent practicable, the resulting grades for general and flag officer positions are uniformly applied to positions of similar duties and responsibilities across the military departments and the joint pool; and

“(C) planning achieves a reduction in the headquarters functions and administrative and support activities and staffs of the Department of Defense and the military departments commensurate with the achievement of the reductions required pursuant to subsection (a).”

## 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 of offices specified in sections 3038, 5143, 5144, and 8038 [now 7038, 8083, 8084, and 9038] 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 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, 231.
- (2) For the Navy, 162.
- (3) For the Air Force, 198.
- (4) For the Marine Corps, 62.

(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, 73.
- (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).