

assistance for the democratic resistance forces in Nicaragua. If funds appropriated or otherwise made available to the Department of Defense for any fiscal year are authorized by law to be used for such assistance, funds for such purpose may only be derived from amounts appropriated or otherwise made available to the Department for procurement (other than ammunition).”

USE OF APPROPRIATED FUNDS TO SUPPORT REVENUE GENERATING ACTIVITIES IN LARGE METROPOLITAN AREAS PROHIBITED

Pub. L. 99-500, §101(c) [title IX, §9102], Oct. 18, 1986, 100 Stat. 1783-82, 1783-118, and Pub. L. 99-591, §101(c) [title IX, §9102], Oct. 30, 1986, 100 Stat. 3341-82, 3341-118, which provided that after Sept. 30, 1987, no appropriated funds could be used to support revenue generating morale, welfare, and recreation activities in large metropolitan areas, was repealed by Pub. L. 100-202, §101(b) [title VIII, §8099], Dec. 22, 1987, 101 Stat. 1329-43, 1329-78.

TRANSFER OF OPERATION AND MAINTENANCE APPROPRIATIONS UNOBLIGATED BALANCES TO FOREIGN CURRENCY FLUCTUATIONS, DEFENSE, APPROPRIATION

Pub. L. 97-377, title I, §101(c) [title VII, §791], Dec. 21, 1982, 96 Stat. 1865, which provided that no later than end of second fiscal year following fiscal year for which appropriations for Operation and Maintenance have been made available to Department of Defense, unobligated balances of such appropriations provided for fiscal year 1982 and thereafter could be transferred into appropriation “Foreign Currency Fluctuations, Defense” to be merged with and available for same time period and same purposes as appropriation to which transferred, except that any transfer made pursuant to any use of this authority was limited so that amount in appropriation did not exceed \$970,000,000 at time of transfer, was repealed and restated in section 2779(d) of this title by Pub. L. 104-106, div. A, title IX, §911(b), (d)(2), (f), Feb. 10, 1996, 110 Stat. 406, 407, applicable only with respect to amounts appropriated for a fiscal year after fiscal year 1995.

WAIVER OF APPLICABILITY OF OMB CIRCULAR A-76 TO CONTRACTING OUT OF CERTAIN RESEARCH AND DEVELOPMENT ACTIVITIES

Pub. L. 96-107, title VIII, §802, Nov. 9, 1979, 93 Stat. 811, provided that:

“(a) Except as provided in subsection (b), neither the implementing instructions for, nor the provisions of, Office of Management and Budget Circular A-76 (issued on August 30, 1967, and reissued on October 18, 1976, June 13, 1977, and March 29, 1979) shall control or be used for policy guidance for the obligation or expenditure of any funds which under section 138(a)(2) [now 114(a)(2)] of title 10, United States Code, are required to be specifically authorized by law.

“(b) Funds which under section 138(a)(2) [now 114(a)(2)] of title 10, United States Code, are required to be specifically authorized by law may be obligated or expended for operation or support of installations or equipment used for research and development (including maintenance support of laboratories, operation and maintenance of test ranges, and maintenance of test aircraft and ships) in compliance with the implementing instructions for and the provisions of such Office of Management and Budget Circular.

“(c) No law enacted after the date of the enactment of this Act [Nov. 9, 1979] shall be held, considered, or construed as amending, superseding, or otherwise modifying any provision of this section unless such law does

so by specifically and explicitly amending, repealing, or superseding this section.”

MANPOWER CONVERSION POLICIES; DEVELOPMENT FOR ANNUAL MANPOWER AUTHORIZATION REQUESTS; JUSTIFICATION FOR CONVERSION TO BE CONTAINED IN ANNUAL MANPOWER REQUIREMENTS REPORT TO CONGRESS

Pub. L. 93-365, title V, §502, Aug. 5, 1974, 88 Stat. 404, which provided that it was the sense of Congress that the Department of Defense use the least costly form of manpower consistent with military requirements and other needs of the Department of Defense, that in developing the annual manpower authorization requests to the Congress and in carrying out manpower policies, the Secretary of Defense was to consider the advantages of converting from one form of manpower to another (military, civilian, or private contract) for the performance of a specified job, and that a full justification of any conversion from one form of manpower to another be contained in the annual manpower requirements report to the Congress required by subsec. (c)(3) of this section, was repealed and restated as subsec. (c)(5) of this section by Pub. L. 97-295, §§1(3), 6(b).

[§ 114a. Renumbered § 221]

§ 115. Personnel strengths: requirement for annual authorization

(a) ACTIVE-DUTY AND SELECTED RESERVE END STRENGTHS TO BE AUTHORIZED BY LAW.—Congress shall authorize personnel strength levels for each fiscal year for each of the following:

(1) The end strength for each of the armed forces (other than the Coast Guard) for (A) active-duty personnel who are to be paid from funds appropriated for active-duty personnel unless on active duty pursuant to subsection (b), and (B) active-duty personnel and full-time National Guard duty personnel who are to be paid from funds appropriated for reserve personnel unless on active duty or full-time National Guard duty pursuant to subsection (b).

(2) The end strength for the Selected Reserve of each reserve component of the armed forces.

(b) CERTAIN RESERVES ON ACTIVE DUTY TO BE AUTHORIZED BY LAW.—(1) Congress shall annually authorize the maximum number of members of a reserve component permitted to be on active duty or full-time National Guard duty at any given time who are called or ordered to—

(A) active duty under section 12301(d) of this title for the purpose of providing operational support, as prescribed in regulation issued by the Secretary of Defense;

(B) full-time National Guard duty under section 502(f)(1)(B) of title 32 for the purpose of providing operational support when authorized by the Secretary of Defense;

(C) active duty under section 12301(d) of this title or full-time National Guard duty under section 502(f)(1)(B) of title 32 for the purpose of preparing for and performing funeral honors functions for funerals of veterans under section 1491 of this title;

(D) active duty or retained on active duty under sections 12301(g) of this title while in a captive status; or

(E) active duty or retained on active duty under 12301(h) or 12322 of this title for the purpose of medical evaluation or treatment.

(2) A member of a reserve component who exceeds either of the following limits shall be in-

cluded in the strength authorized under subparagraph (A) or subparagraph (B), as appropriate, of subsection (a)(1):

(A) A call or order to active duty or full-time National Guard duty that specifies a period greater than three years.

(B) The cumulative periods of active duty and full-time National Guard duty performed by the member exceed 1095 days in the previous 1460 days.

(3) In determining the period of active service under paragraph (2), the following periods of active service performed by a member shall not be included:

(A) All periods of active duty performed by a member who has not previously served in the Selected Reserve of the Ready Reserve.

(B) All periods of active duty or full-time National Guard duty for which the member is exempt from strength accounting under paragraphs (1) through (8) of subsection (i).

(4) As part of the budget justification materials submitted by the Secretary of Defense to Congress in support of the end strength authorizations required under subparagraphs (A) and (B) of subsection (a)(1) for fiscal year 2009 and each fiscal year thereafter, the Secretary shall provide the following:

(A) The number of members, specified by reserve component, authorized under subparagraphs (A) and (B) of paragraph (1) who were serving on active duty or full-time National Guard duty for operational support beyond each of the limits specified under subparagraphs (A) and (B) of paragraph (2) at the end of the fiscal year preceding the fiscal year for which the budget justification materials are submitted.

(B) The number of members, specified by reserve component, on active duty for operational support who, at the end of the fiscal year for which the budget justification materials are submitted, are projected to be serving on active duty or full-time National Guard duty for operational support beyond such limits.

(C) The number of members, specified by reserve component, on active duty or full-time National Guard duty for operational support who are included in, and counted against, the end strength authorizations requested under subparagraphs (A) and (B) of subsection (a)(1).

(D) A summary of the missions being performed by members identified under subparagraphs (A) and (B).

(c) LIMITATION ON APPROPRIATIONS FOR MILITARY PERSONNEL.—No funds may be appropriated for any fiscal year to or for—

(1) the use of active-duty personnel or full-time National Guard duty personnel of any of the armed forces (other than the Coast Guard) unless the end strength for such personnel of that armed force for that fiscal year has been authorized by law;

(2) the use of the Selected Reserve of any reserve component of the armed forces unless the end strength for the Selected Reserve of that component for that fiscal year has been authorized by law; or

(3) the use of reserve component personnel to perform active duty or full-time National

Guard duty under subsection (b) unless the strength for such personnel for that reserve component for that fiscal year has been authorized by law.

(d) MILITARY TECHNICIAN (DUAL STATUS) END STRENGTHS TO BE AUTHORIZED BY LAW.—Congress shall authorize for each fiscal year the end strength for military technicians (dual status) for each reserve component of the Army and Air Force. Funds available to the Department of Defense for any fiscal year may not be used for the pay of a military technician (dual status) during that fiscal year unless the technician fills a position that is within the number of such positions authorized by law for that fiscal year for the reserve component of that technician. This subsection applies without regard to section 129 of this title. In each budget submitted by the President to Congress under section 1105 of title 31, the end strength requested for military technicians (dual status) for each reserve component of the Army and Air Force shall be specifically set forth.

(e) END-OF-QUARTER STRENGTH LEVELS.—(1) The Secretary of Defense shall prescribe and include in the budget justification documents submitted to Congress in support of the President's budget for the Department of Defense for any fiscal year the Secretary's proposed end-of-quarter strengths for each of the first three quarters of the fiscal year for which the budget is submitted, in addition to the Secretary's proposed fiscal-year end-strengths for that fiscal year. Such end-of-quarter strengths shall be submitted for each category of personnel for which end strengths are required to be authorized by law under subsection (a) or (d). The Secretary shall ensure that resources are provided in the budget at a level sufficient to support the end-of-quarter and fiscal-year end-strengths as submitted.

(2)(A) After annual end-strength levels required by subsections (a) and (d) are authorized by law for a fiscal year, the Secretary of Defense shall promptly prescribe end-of-quarter strength levels for the first three quarters of that fiscal year applicable to each such end-strength level. Such end-of-quarter strength levels shall be established for any fiscal year as levels to be achieved in meeting each of those annual end-strength levels authorized by law in accordance with subsection (a) (as such levels may be adjusted pursuant to subsection (f)) and subsection (d).

(B) At least annually, the Secretary of Defense shall establish for each of the armed forces (other than the Coast Guard) the maximum permissible variance of actual strength for an armed force at the end of any given quarter from the end-of-quarter strength established pursuant to subparagraph (A). Such variance shall be such that it promotes the maintaining of the strength necessary to achieve the end-strength levels authorized in accordance with subsection (a) (as adjusted pursuant to subsection (f)) and subsection (d).

(3) Whenever the Secretary establishes an end-of-quarter strength level under subparagraph (A) of paragraph (2), or modifies a strength level under the authority provided in subparagraph (B) of paragraph (2), the Secretary shall notify the Committee on Armed Services of the Senate

and the Committee on Armed Services of the House of Representatives of that strength level or of that modification, as the case may be.

(f) **AUTHORITY FOR SECRETARY OF DEFENSE VARIANCES FOR ACTIVE-DUTY AND SELECTED RESERVE STRENGTHS.**—Upon determination by the Secretary of Defense that such action is in the national interest, the Secretary may—

(1) increase the end strength authorized pursuant to subsection (a)(1)(A) for a fiscal year for any of the armed forces by a number equal to not more than 3 percent of that end strength;

(2) increase the end strength authorized pursuant to subsection (a)(1)(B) for a fiscal year for any of the armed forces by a number equal to not more than 2 percent of that end strength;

(3) vary the end strength authorized pursuant to subsection (a)(2) for a fiscal year for the Selected Reserve of any of the reserve components by a number equal to not more than 3 percent of that end strength; and

(4) increase the maximum strength authorized pursuant to subsection (b)(1) for a fiscal year for certain reserves on active duty for any of the reserve components by a number equal to not more than 10 percent of that strength.

(g) **AUTHORITY FOR SERVICE SECRETARY VARIANCES FOR ACTIVE-DUTY AND SELECTED RESERVE END STRENGTHS.**—(1) Upon determination by the Secretary of a military department that such action would enhance manning and readiness in essential units or in critical specialties or ratings, the Secretary may—

(A) increase the end strength authorized pursuant to subsection (a)(1)(A) for a fiscal year for the armed force under the jurisdiction of that Secretary or, in the case of the Secretary of the Navy, for any of the armed forces under the jurisdiction of that Secretary, by a number equal to not more than 2 percent of such authorized end strength; and

(B) increase the end strength authorized pursuant to subsection (a)(2) for a fiscal year for the Selected Reserve of the reserve component of the armed force under the jurisdiction of that Secretary or, in the case of the Secretary of the Navy, for the Selected Reserve of the reserve component of any of the armed forces under the jurisdiction of that Secretary, by a number equal to not more than 2 percent of such authorized end strength.

(2) Any increase under paragraph (1)(A) of the end strength for an armed force for a fiscal year shall be counted as part of the increase for that armed force for that fiscal year authorized under subsection (f)(1). Any increase under paragraph (1)(B) of the end strength for the Selected Reserve of a reserve component of an armed force for a fiscal year shall be counted as part of the increase for that Selected Reserve for that fiscal year authorized under subsection (f)(3).

(h) **ADJUSTMENT WHEN COAST GUARD IS OPERATING AS A SERVICE IN THE NAVY.**—The authorized strength of the Navy under subsection (a)(1) is increased by the authorized strength of the Coast Guard during any period when the Coast Guard is operating as a service in the Navy.

(i) **CERTAIN PERSONNEL EXCLUDED FROM COUNTING FOR ACTIVE-DUTY END STRENGTHS.**—In counting personnel for the purpose of the end strengths authorized pursuant to subsection (a)(1), persons in the following categories shall be excluded:

(1) Members of a reserve component ordered to active duty under section 12301(a) of this title.

(2) Members of a reserve component in an active status ordered to active duty under section 12301(b) of this title.

(3) Members of the Ready Reserve ordered to active duty under section 12302 of this title.

(4) Members of the Selected Reserve of the Ready Reserve or members of the Individual Ready Reserve mobilization category described in section 10144(b) of this title ordered to active duty under section 12304 of this title.

(5) Members of the National Guard called into Federal service under section 12406 of this title.

(6) Members of the militia called into Federal service under chapter 13 of this title.

(7) Members of the National Guard on full-time National Guard duty under section 502(f)(1)(A) of title 32.

(8) Members of reserve components on active duty for training or full-time National Guard duty for training.

(9) Members of the Selected Reserve of the Ready Reserve on active duty to support programs described in section 1321(a) of the Department of Defense Cooperative Threat Reduction Act (50 U.S.C. 3711(a)).

(10) Members of the National Guard on active duty or full-time National Guard duty for the purpose of carrying out drug interdiction and counter-drug activities under section 112 of title 32.

(11) Members of a reserve component on active duty under section 10(b)(2) of the Military Selective Service Act (50 U.S.C. App. 460(b)(2))<sup>1</sup> for the administration of the Selective Service System.

(12) Members of the National Guard on full-time National Guard duty for the purpose of providing command, administrative, training, or support services for the National Guard Challenge Program authorized by section 509 of title 32.

(13) Members of the National Guard on full-time National Guard duty involuntarily and performing homeland defense activities under chapter 9 of title 32.

(Added Pub. L. 101-510, div. A, title XIV, §1483(a), Nov. 5, 1990, 104 Stat. 1710; amended Pub. L. 102-190, div. A, title III, §312(a), Dec. 5, 1991, 105 Stat. 1335; Pub. L. 104-106, div. A, title IV, §§401(c), 415, title V, §513(a)(1), title X, §1061(c), title XV, §1501(c)(3), Feb. 10, 1996, 110 Stat. 286, 288, 305, 442, 498; Pub. L. 105-85, div. A, title IV, §413(b), title V, §522(i)(1), Nov. 18, 1997, 111 Stat. 1720, 1736; Pub. L. 106-65, div. A, title IV, §415, Oct. 5, 1999, 113 Stat. 587; Pub. L. 106-398, §1 [[div. A], title IV, §422], Oct. 30, 2000, 114 Stat. 1654, 1654A-96; Pub. L. 107-107, div. A, title IV, §§421(a), 422, Dec. 28, 2001, 115 Stat. 1076,

<sup>1</sup> See References in Text note below.

1077; Pub. L. 107–314, div. A, title IV, § 403, Dec. 2, 2002, 116 Stat. 2525; Pub. L. 108–136, div. A, title IV, § 403(a), (b), Nov. 24, 2003, 117 Stat. 1450, 1451; Pub. L. 108–375, div. A, title IV, § 416(a)–(d), title V, § 512(b), Oct. 28, 2004, 118 Stat. 1866, 1867, 1880; Pub. L. 109–364, div. A, title X, § 1071(a)(1), (g)(1)(A), Oct. 17, 2006, 120 Stat. 2398, 2402; Pub. L. 110–181, div. A, title IV, §§ 416(b), 417, Jan. 28, 2008, 122 Stat. 91, 92; Pub. L. 111–84, div. A, title IV, § 418, Oct. 28, 2009, 123 Stat. 2268; Pub. L. 114–328, div. A, title IV, § 416, Dec. 23, 2016, 130 Stat. 2093; Pub. L. 115–91, div. A, title X, § 1081(a)(2), Dec. 12, 2017, 131 Stat. 1594; Pub. L. 115–232, div. A, title XII, § 1204(a)(4), Aug. 13, 2018, 132 Stat. 2017.)

## REFERENCES IN TEXT

Section 10(b)(2) of the Military Selective Service Act, referred to in subsec. (i)(11), was classified to section 460(b)(2) of the former Appendix to Title 50, War and National Defense, prior to editorial reclassification and renumbering as section 3809(b)(2) of Title 50.

## PRIOR PROVISIONS

A prior section 115, added Pub. L. 93–155, title VIII, § 803(a), Nov. 16, 1973, 87 Stat. 612, § 138(b)–(d); amended Pub. L. 94–361, title III, § 302, July 14, 1976, 90 Stat. 924; Pub. L. 96–107, title III, § 303(b), Nov. 9, 1979, 93 Stat. 806; Pub. L. 96–513, title I, § 102, Dec. 12, 1980, 94 Stat. 2840; Pub. L. 97–22, § 2(b), July 10, 1981, 95 Stat. 124; Pub. L. 97–86, title IX, §§ 902, 903, Dec. 1, 1981, 95 Stat. 1113, 1114; Pub. L. 97–252, title IV, § 402(a), Sept. 8, 1982, 96 Stat. 725; Pub. L. 97–295, § 1(3), Oct. 12, 1982, 96 Stat. 1289; Pub. L. 99–145, title XII, § 1208, Nov. 8, 1985, 99 Stat. 723; renumbered § 115, Pub. L. 99–433, title I, §§ 101(a)(2), 110(b)(4), (5), Oct. 1, 1986, 100 Stat. 994, 1002; Pub. L. 99–661, div. A, title IV, §§ 411(c) [(d)], 413, Nov. 14, 1986, 100 Stat. 3861, 3862; Pub. L. 100–26, § 7(j)(2), Apr. 21, 1987, 101 Stat. 283; Pub. L. 100–456, div. A, title VI, § 641, Sept. 29, 1988, 102 Stat. 1987, related to annual authorization of personnel strengths and annual manpower requirements reports, prior to repeal and reenactment as sections 115, 115a, 115b [now 10541], 123a, and 129a of this title by Pub. L. 101–510, § 1483(a), (b).

## AMENDMENTS

2018—Subsec. (i)(6). Pub. L. 115–232 substituted “chapter 13” for “chapter 15”.

2017—Subsec. (i)(9). Pub. L. 115–91 substituted “section 1321(a) of the Department of Defense Cooperative Threat Reduction Act (50 U.S.C. 3711(a))” for “section 1203(b) of the Cooperative Threat Reduction Act of 1993 (22 U.S.C. 5952(b))”.

2016—Subsec. (b)(1)(B), (C). Pub. L. 114–328, § 416(1), substituted “502(f)(1)(B)” for “502(f)(2)”.

Subsec. (i)(7). Pub. L. 114–328, § 416(2), substituted “502(f)(1)(A)” for “502(f)(1)”.

2009—Subsec. (g). Pub. L. 111–84 amended subsec. (g) generally. Prior to amendment, subsec. (g) related to authority for service secretary variances for active-duty end strengths.

2008—Subsec. (b)(4). Pub. L. 110–181, § 416(b), added par. (4).

Subsec. (f)(3). Pub. L. 110–181, § 417, substituted “3 percent” for “2 percent”.

2006—Subsec. (a)(1)(A). Pub. L. 109–364, § 1071(g)(1)(A), made technical correction to directory language of Pub. L. 108–375, § 416(a)(1). See 2004 Amendment note below.

Subsec. (i). Pub. L. 109–364, § 1071(a)(1)(A), struck out heading and text of subsec. (i) enacted by Pub. L. 108–375, § 512(b). Text read as follows: “In counting full-time National Guard duty personnel for the purpose of end-strengths authorized pursuant to subsection (a)(1), persons involuntarily performing homeland defense activities under chapter 9 of title 32 shall be excluded.”

Subsec. (i)(13). Pub. L. 109–364, § 1071(a)(1)(B), added par. (13).

2004—Subsec. (a)(1)(A). Pub. L. 108–375, § 416(a)(1), as amended by Pub. L. 109–364, § 1071(g)(1)(A), inserted “unless on active duty pursuant to subsection (b)” after “funds appropriated for active-duty personnel”.

Subsec. (a)(1)(B). Pub. L. 108–375, § 416(a)(2), inserted “unless on active duty or full-time National Guard duty pursuant to subsection (b)” after “reserve personnel”.

Subsec. (b). Pub. L. 108–375, § 416(a)(4), added subsec. (b). Former subsec. (b) redesignated (c).

Subsec. (c). Pub. L. 108–375, § 416(a)(3), redesignated subsec. (b) as (c). Former subsec. (c) redesignated (d).

Subsec. (c)(3). Pub. L. 108–375, § 416(b), added par. (3).

Subsec. (d). Pub. L. 108–375, § 416(a)(3), redesignated subsec. (c) as (d). Former subsec. (d) redesignated (e).

Subsec. (e). Pub. L. 108–375, § 416(a)(3), redesignated subsec. (d) as (e). Former subsec. (e) redesignated (f).

Subsec. (e)(1). Pub. L. 108–375, § 416(d)(1)(A), substituted “subsection (a) or (d)” for “subsection (a) or (c)”.

Subsec. (e)(2). Pub. L. 108–375, § 416(d)(1)(B), substituted “subsections (a) and (d)” for “subsections (a) and (c)” in subpar. (A) and substituted “pursuant to subsection (f) and subsection (d)” for “pursuant to subsection (e) and subsection (c)” in subpars. (A) and (B).

Subsec. (f). Pub. L. 108–375, § 416(c)(1), struck out “End” after “Reserve” in heading.

Pub. L. 108–375, § 416(a)(3), redesignated subsec. (e) as (f). Former subsec. (f) redesignated (g).

Subsec. (f)(4). Pub. L. 108–375, § 416(c)(2)–(4), added par. (4).

Subsec. (g). Pub. L. 108–375, § 416(a)(3), redesignated subsec. (f) as (g). Former subsec. (g) redesignated (h).

Subsec. (g)(2). Pub. L. 108–375, § 416(d)(2), substituted “subsection (f)(1)” for “subsection (e)(1)”.

Subsec. (h). Pub. L. 108–375, § 416(a)(3), redesignated subsec. (g) as (h). Former subsec. (h) redesignated (i).

Subsec. (i). Pub. L. 108–375, § 512(b), added subsec. (i) relating to certain full-time National Guard duty personnel excluded from counting for full-time National Guard duty end strengths.

Pub. L. 108–375, § 416(d)(3), amended heading and text of subsec. (i) generally, substituting provisions relating to 12 categories of personnel excluded from counting for active-duty end strengths for provisions relating to 11 categories of active-duty personnel excluded from counting for active-duty end strengths.

Pub. L. 108–375, § 416(a)(3), redesignated subsec. (h) as (i).

2003—Subsecs. (a), (b). Pub. L. 108–136, § 403(b)(1), (2), inserted headings.

Subsec. (c). Pub. L. 108–136, § 403(a)(1), (b)(3), redesignated subsec. (g) as (c), transferred it to appear after subsec. (b), and inserted heading. Former subsec. (c) redesignated (e).

Subsec. (d). Pub. L. 108–136, § 403(a)(3), added subsec. (d). Former subsec. (d) redesignated (h).

Subsec. (e). Pub. L. 108–136, § 403(a)(1), (b)(4), redesignated subsec. (c) as (e), transferred it to appear after subsec. (d), and inserted heading. Former subsec. (e) redesignated (g).

Subsec. (f). Pub. L. 108–136, § 403(b)(5), inserted heading and, in par. (2), substituted “subsection (e)(1)” for “subsection (c)(1)”.

Subsec. (g). Pub. L. 108–136, § 403(a)(1), (b)(6), redesignated subsec. (e) as (g), transferred it to appear after subsec. (f), and inserted heading. Former subsec. (g) redesignated (c).

Subsec. (h). Pub. L. 108–136, § 403(a)(2), (b)(7), redesignated subsec. (d) as (h), transferred it to appear at end of section, and inserted heading.

2002—Subsec. (c)(1). Pub. L. 107–314, § 403(a), substituted “3 percent” for “2 percent”.

Subsec. (f). Pub. L. 107–314, § 403(b), added subsec. (f).

2001—Subsec. (c)(1). Pub. L. 107–107, § 421(a), substituted “2 percent” for “1 percent”.

Subsec. (d)(10), (11). Pub. L. 107–107, § 422, added pars. (10) and (11).

2000—Subsec. (d)(9). Pub. L. 106–398 added par. (9).

1999—Subsec. (c)(3). Pub. L. 106–65 added par. (3).

1997—Subsec. (g). Pub. L. 105–85, §522(i)(1), inserted “(dual status)” after “military technicians” in first sentence and after “military technician” in second sentence.

Pub. L. 105–85, §413(b), inserted at end “In each budget submitted by the President to Congress under section 1105 of title 31, the end strength requested for military technicians (dual status) for each reserve component of the Army and Air Force shall be specifically set forth.”

1996—Subsec. (a)(3). Pub. L. 104–106, §1061(c)(1), struck out par. (3) which read as follows: “The average military training student loads for each of the armed forces (other than the Coast Guard).”

Subsec. (b). Pub. L. 104–106, §1061(c)(2), inserted “or” at end of par. (1), substituted a period for “; or” at end of par. (2), and struck out par. (3) which read as follows: “training military personnel in the training categories described in subsection (f) of any of the armed forces (other than the Coast Guard) unless the average student load of that armed force for that fiscal year has been authorized by law.”

Subsec. (c)(1). Pub. L. 104–106, §401(c), substituted “1 percent” for “0.5 percent”.

Subsec. (d)(1). Pub. L. 104–106, §1501(c)(3)(A), substituted “section 12302” for “section 673”.

Subsec. (d)(2). Pub. L. 104–106, §1501(c)(3)(B), substituted “section 12304” for “section 673b”.

Subsec. (d)(3). Pub. L. 104–106, §1501(c)(3)(C), substituted “section 12406” for “section 3500 or 8500”.

Subsec. (d)(8). Pub. L. 104–106, §415, added par. (8).

Subsec. (f). Pub. L. 104–106, §1061(c)(3), struck out subsec. (f) which read as follows: “Authorization under subsection (a)(3) is not required for unit or crew training student loads, but is required for student loads for the following individual training categories:

“(1) Recruit and specialized training.

“(2) Flight training.

“(3) Professional training in military and civilian institutions.

“(4) Officer acquisition training.”

Subsec. (g). Pub. L. 104–106, §513(a)(1), added subsec. (g).

1991—Subsec. (a)(4). Pub. L. 102–190, §312(a)(1), struck out par. (4) which read as follows: “The end strength for civilian personnel for each component of the Department of Defense.”

Subsec. (b)(2) to (4). Pub. L. 102–190, §312(a)(2), inserted “or” at end of par. (2), substituted a period for “; or” at end of par. (3), and struck out par. (4) which read as follows: “the use of the civilian personnel of any component of the Department of Defense unless the end strength for civilian personnel of that component for that fiscal year has been authorized by law.”

#### EFFECTIVE DATE OF 2006 AMENDMENT

Pub. L. 109–364, div. A, title X, §1071(g), Oct. 17, 2006, 120 Stat. 2402, provided that the amendment made by section 1071(g)(1)(A) is effective as of Oct. 28, 2004, and as if included in Pub. L. 108–375 as enacted.

#### EFFECTIVE DATE OF 2003 AMENDMENT

Pub. L. 108–136, div. A, title IV, §403(d), Nov. 24, 2003, 117 Stat. 1452, provided that: “Subsection (d) of section 115 of title 10, United States Code, as added by subsection (a)(3), shall apply with respect to the budget request for fiscal year 2005 and thereafter.”

#### EFFECTIVE DATE OF 1996 AMENDMENT

Pub. L. 104–106, div. A, title V, §513(a)(2), Feb. 10, 1996, 110 Stat. 305, provided that: “The amendment made by paragraph (1) [amending this section] does not apply with respect to fiscal year 1995.”

Pub. L. 104–106, div. A, title XV, §1501(c), Feb. 10, 1996, 110 Stat. 498, provided that the amendment made by that section is effective as of Dec. 1, 1994, and as if included as an amendment made by the Reserve Officer Personnel Management Act, title XVI of Pub. L. 103–337, as originally enacted.

#### REGULATIONS

Pub. L. 108–375, div. A, title IV, §416(m), Oct. 28, 2004, 118 Stat. 1869, provided that: “The Secretary of Defense shall prescribe by regulation the meaning of the term ‘operational support’ for purposes of paragraph (1) of subsection (b) of section 115 of title 10, United States Code, as added by subsection (a).”

#### 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.

#### ADDITIONAL AUTHORITY FOR INCREASES OF ARMY ACTIVE DUTY PERSONNEL END STRENGTHS FOR FISCAL YEARS 2008 AND 2009

Pub. L. 108–375, div. A, title IV, §403, Oct. 28, 2004, 118 Stat. 1863, as amended by Pub. L. 109–163, div. A, title IV, §403, Jan. 6, 2006, 119 Stat. 3219; Pub. L. 109–364, div. A, title IV, §403, Oct. 17, 2006, 120 Stat. 2169, which authorized the Secretary of Defense, for each of fiscal years 2008 and 2009, to establish the active-duty end strengths for the Army and the Marine Corps at numbers greater than the numbers otherwise authorized by law up to the numbers equal to the fiscal-year 2007 baseline plus 20,000 with respect to the Army and plus 4,000 with respect to the Marine Corps, was repealed by Pub. L. 110–181, div. A, title IV, §403(h), Jan. 28, 2008, 122 Stat. 87.

#### AUTHORIZATION FOR INCREASE IN ACTIVE-DUTY END STRENGTHS FOR FISCAL YEAR 1996

Pub. L. 104–106, div. A, title IV, §432, Feb. 10, 1996, 110 Stat. 290, authorized \$112,000,000 to be appropriated to the Department of Defense for fiscal year 1996 to increase the number of active-component military personnel for that fiscal year and provided that end-strength authorizations would each be deemed to be increased as necessary.

#### END STRENGTHS FOR MILITARY TECHNICIANS (DUAL STATUS)

Pub. L. 109–163, div. A, title IV, §413, Jan. 6, 2006, 119 Stat. 3221, which authorized the minimum number of military technicians (dual status) as of the last day of a fiscal year for each of the reserve components of the Army and the Air Force, was from the National Defense Authorization Act for Fiscal Year 2006 and was repeated in provisions of subsequent authorization acts which are not set out in the Code. Similar provisions were contained in the following prior authorization acts:

Pub. L. 108–375, div. A, title IV, §413, Oct. 28, 2004, 118 Stat. 1865.

Pub. L. 108–136, div. A, title IV, §413, Nov. 24, 2003, 117 Stat. 1453.

Pub. L. 107–314, div. A, title IV, §413, Dec. 2, 2002, 116 Stat. 2527.

Pub. L. 107–107, div. A, title IV, §413, Dec. 28, 2001, 115 Stat. 1070.

Pub. L. 106–398, §1 [[div. A], title IV, §413], Oct. 30, 2000, 114 Stat. 1654, 1654A–93.

Pub. L. 106–65, div. A, title IV, §413, Oct. 5, 1999, 113 Stat. 586.

Pub. L. 105–261, div. A, title IV, §413, Oct. 17, 1998, 112 Stat. 1997.

Pub. L. 105–85, div. A, title IV, §413(a), Nov. 18, 1997, 111 Stat. 1720.

Pub. L. 104–201, div. A, title IV, §413(a), Sept. 23, 1996, 110 Stat. 2507.

Pub. L. 104–106, div. A, title V, §513(b), Feb. 10, 1996, 110 Stat. 305.

COMPTROLLER GENERAL REVIEW OF PROPOSED ARMY  
END STRENGTH ALLOCATIONS

Pub. L. 104-106, title V, §552, Feb. 10, 1996, 110 Stat. 319, provided that, during fiscal years 1996 through 2001, the Comptroller General was (1) to analyze the plans of the Secretary of the Army for the allocation of assigned active component end strengths for the Army through the requirements process known as Total Army Analysis 2003 and through any subsequent similar requirements process of the Army that was conducted before 2002, (2) to consider whether the proposed active component end strengths and planned allocation of forces for that period was sufficient to implement the national military strategy, and (3) to submit to Congress an annual report by Mar. 1 of each year through 2002 on the Comptroller General's findings and conclusions, prior to repeal by Pub. L. 107-107, div. A, title V, §595, Dec. 28, 2001, 115 Stat. 1126.

EFFECT OF RESERVE COMPONENT ON COMPUTATION OF  
END STRENGTH LIMITATION FOR ACTIVE FORCES FOR  
FISCAL YEAR 1995

Pub. L. 103-337, div. A, title XIII, §1316(c), Oct. 5, 1994, 108 Stat. 2899, provided that a member of a reserve component who is on active duty under a call or order to active duty for 180 days or more for activities under former section 168 of this title shall not be counted (under subsec. (a)(1) of this section) against the applicable end strength limitation for members of the Armed Forces on active duty for fiscal year 1995 prescribed in section 401 of Pub. L. 103-337, formerly set out below.

END STRENGTHS FOR ACTIVE FORCES

Pub. L. 109-163, div. A, title IV, §401, Jan. 6, 2006, 119 Stat. 3218, which authorized specified strengths for Armed Forces active duty personnel as of Sept. 30, 2006, and provided that costs for that fiscal year of active duty personnel of the Army and the Marine Corps in excess of specified amounts would be paid out of funds authorized to be appropriated for that fiscal year for a contingent emergency reserve fund or as an emergency supplemental appropriation, was from the National Defense Authorization Act for Fiscal Year 2006 and was repeated in provisions of subsequent authorization acts which are not set out in the Code. Similar provisions were contained in the following prior authorization acts:

Pub. L. 108-375, div. A, title IV, §401, Oct. 28, 2004, 118 Stat. 1862.

Pub. L. 108-136, div. A, title IV, §401, Nov. 24, 2003, 117 Stat. 1450.

Pub. L. 107-314, div. A, title IV, §401, Dec. 2, 2002, 116 Stat. 2524.

Pub. L. 107-107, div. A, title IV, §401, Dec. 28, 2001, 115 Stat. 1069.

Pub. L. 106-398, §1 [[div. A], title IV, §401], Oct. 30, 2000, 114 Stat. 1654, 1654A-92.

Pub. L. 106-65, div. A, title IV, §401, Oct. 5, 1999, 113 Stat. 585.

Pub. L. 105-261, div. A, title IV, §401, Oct. 17, 1998, 112 Stat. 1995.

Pub. L. 105-85, div. A, title IV, §401, Nov. 18, 1997, 111 Stat. 1719.

Pub. L. 104-201, div. A, title IV, §401, Sept. 23, 1996, 110 Stat. 2503.

Pub. L. 104-106, div. A, title IV, §401(a), Feb. 10, 1996, 110 Stat. 285.

Pub. L. 103-337, div. A, title IV, §401, Oct. 5, 1994, 108 Stat. 2743.

Pub. L. 103-160, div. A, title IV, §§401, 403, Nov. 30, 1993, 107 Stat. 1639, 1640.

Pub. L. 102-484, div. A, title IV, §§401, 402, Oct. 23, 1992, 106 Stat. 2397.

Pub. L. 102-190, div. A, title IV, §401, title VI, §664, Dec. 5, 1991, 105 Stat. 1349, 1399.

Pub. L. 101-510, div. A, title IV, §§401, 402, Nov. 5, 1990, 104 Stat. 1543, 1544; Pub. L. 102-25, title II, §§201(a), 202, 205(a), Apr. 6, 1991, 105 Stat. 79, 80; Pub. L. 104-106, div. A, title XV, §1502(c)(4)(A), Feb. 10, 1996, 110 Stat. 507.

Pub. L. 101-189, div. A, title IV, §401, Nov. 29, 1989, 103 Stat. 1431, as amended by Pub. L. 101-510, div. A, title IV, §401(d), Nov. 5, 1990, 104 Stat. 1544.

Pub. L. 100-456, div. A, title IV, §401, Sept. 29, 1988, 102 Stat. 1963.

Pub. L. 100-180, div. A, title IV, §401, Dec. 4, 1987, 101 Stat. 1081.

Pub. L. 99-661, div. A, title IV, §401, Nov. 14, 1986, 100 Stat. 3859.

Pub. L. 99-145, title IV, §401, Nov. 8, 1985, 99 Stat. 618.

Pub. L. 98-525, title IV, §401, Oct. 19, 1984, 98 Stat. 2516.

Pub. L. 98-94, title IV, §401, Sept. 24, 1983, 97 Stat. 629.

Pub. L. 97-252, title IV, §401, Sept. 8, 1982, 96 Stat. 725.

Pub. L. 97-86, title IV, §401, Dec. 1, 1981, 95 Stat. 1104, as amended by Pub. L. 97-252, title IX, §903, Sept. 8, 1982, 96 Stat. 729.

Pub. L. 96-342, title III, §301, Sept. 8, 1980, 94 Stat. 1082, as amended by Pub. L. 97-39, title III, §301, Aug. 14, 1981, 95 Stat. 940.

Pub. L. 96-107, title III, §301, Nov. 9, 1979, 93 Stat. 806.

Pub. L. 95-485, title III, §301, Oct. 20, 1978, 92 Stat. 1613.

Pub. L. 95-79, title III, §301, July 30, 1977, 91 Stat. 326.

Pub. L. 94-361, title III, §301, July 14, 1976, 90 Stat. 924.

Pub. L. 94-106, title III, §301, Oct. 7, 1975, 89 Stat. 532.

Pub. L. 93-365, title III, §301, Aug. 5, 1974, 88 Stat. 401.

Pub. L. 93-155, title III, §301, Nov. 16, 1973, 87 Stat. 607.

Pub. L. 92-436, title III, §301, Sept. 26, 1972, 86 Stat. 735.

MINIMUM NUMBER OF NAVY HEALTH PROFESSIONS  
OFFICERS

Pub. L. 102-190, div. A, title VII, §718(b), Dec. 5, 1991, 105 Stat. 1404, provided that, of the total number of officers authorized to be serving on active duty in Navy on last day of a fiscal year, 12,510 were to be available only for assignment to duties in health profession specialties, prior to repeal by Pub. L. 104-106, div. A, title V, §564(d)(2), Feb. 10, 1996, 110 Stat. 327.

LIMITATIONS ON REDUCTIONS IN MEDICAL PERSONNEL

Pub. L. 101-510, div. A, title VII, §711, Nov. 5, 1990, 104 Stat. 1582, as amended by Pub. L. 102-190, div. A, title VII, §718(a), Dec. 5, 1991, 105 Stat. 1404, prohibited Secretary of Defense from reducing number of medical personnel of Department of Defense below baseline number unless Secretary certified to Congress that number of such personnel being reduced was excess to current and projected needs of military departments, and such reduction would not result in increase in cost of health care services provided under Civilian Health and Medical Program of the Uniformed Services, and, in case of military medical personnel, included in certification information on strength levels for individual category of medical personnel involved in reduction as of Sept. 30, 1989, projected requirements of Department over 5-fiscal year period following fiscal year in which certification was submitted for medical personnel in category of medical personnel involved, and strength level recommended for each component of Armed Forces for most recent fiscal year for which Secretary submitted recommendations pursuant to former section 115a(g)(1) of this title for personnel in category of medical personnel involved, prior to repeal by Pub. L. 104-106, div. A, title V, §564(d)(1), Feb. 10, 1996, 110 Stat. 327. See section 129c of this title.

OPERATION DESERT SHIELD INCREASE IN END  
STRENGTHS OF ACTIVE DUTY PERSONNEL; AUTHORITY;  
CERTIFICATION

Pub. L. 101-510, div. A, title XI, §1117, Nov. 5, 1990, 104 Stat. 1637, authorized Secretary of Defense, after determining that operational requirements of Operation Desert Shield so require, to increase the end strengths of active duty personnel for fiscal year 1991 by an amount not greater than 0.5 percent of the total end strengths authorized by section 401 of Pub. L. 101-510, set out above, and required certification by Secretary

to Committees on Armed Services of Senate and House of Representatives of necessity of such increase, prior to repeal by Pub. L. 102-25, title II, §204, Apr. 6, 1991, 105 Stat. 80.

**§ 115a. Annual defense manpower profile report and related reports**

(a) Not later than April 1 each year, the Secretary of Defense shall submit to Congress a defense manpower profile report. The report shall contain the Secretary's recommendations for—

(1) the annual active-duty end-strength level for each component of the armed forces for the next fiscal year; and

(2) the annual civilian personnel requirements level for each component of the Department of Defense for the next fiscal year and the civilian end-strength level for the prior fiscal year.

(b) The Secretary shall include in each report under subsection (a) justification for the strength levels recommended and an explanation of the relationship between the personnel strength levels recommended for that fiscal year and the national security policies of the United States in effect at the time.

(c) The Secretary shall include in each report under subsection (a) a detailed discussion of the manpower required for support and overhead functions within the armed forces and the Department of Defense.

(d) Not later than April 1 each year, the Secretary shall submit to Congress a report that sets forth, with respect to each armed force under the jurisdiction of the Secretary of a military department, the following:

(1) The number of positions that require warrant officers or commissioned officers serving on active duty in each of the officer grades during the current fiscal year and the estimated number of such positions for each of the next five fiscal years.

(2) The estimated number of officers that will be serving on active duty in each grade on the last day of the current fiscal year and the estimated numbers of officers that will be needed on active duty on the last day of each of the next five fiscal years.

(3) An estimate and analysis for the current fiscal year and for each of the next five fiscal years of gains to and losses from the number of members on active duty in each officer grade, including a tabulation of—

- (A) retirements displayed by year of active commissioned service;
- (B) discharges;
- (C) other separations;
- (D) deaths;
- (E) promotions; and
- (F) reserve and regular officers ordered to active duty.

(4) The opportunities for promotion of commissioned officers anticipated to be estimated pursuant to section 623(b)(4) of this title for the fiscal year in which such report is submitted for purposes of promotion selection boards convened pursuant to section 611 of this title during such fiscal year.

(e)(1) Not later than April 1 each year, the Secretary shall submit to Congress a report that

sets forth recommendations for the end-strength levels for medical personnel for each component of the armed forces as of the end of the next fiscal year.

(2) For purposes of this subsection, the term "medical personnel" includes—

(A) in the case of the Army, members of the Medical Corps, Dental Corps, Nurse Corps, Medical Service Corps, Veterinary Corps, and Army Medical Specialist Corps;

(B) in the case of the Navy, members of the Medical Corps, Dental Corps, Nurse Corps, and Medical Service Corps;

(C) in the case of the Air Force, members designated as medical officers, dental officers, Air Force nurses, medical service officers, and biomedical science officers;

(D) enlisted members engaged in or supporting medically related activities; and

(E) such other personnel as the Secretary considers appropriate.

(f) Not later than June 1 each year, the Secretary shall submit to Congress a report that sets forth the following information with respect to personnel assigned to or supporting major Department of Defense headquarters activities:

(1) The military end strength and civilian full-time equivalents assigned to major Department of Defense headquarters activities for the preceding fiscal year.

(2) A summary of the replacement during the preceding fiscal year of contract workyears providing support to major Department of Defense headquarters activities with military end strength or civilian full-time equivalents, including an estimate of the number of contract workyears associated with the replacement of contracts performing inherently governmental or exempt functions.

(3) The plan for the continued review of contract personnel supporting major Department of Defense headquarters activities for possible conversion to military or civilian performance in accordance with section 2463 of this title.

(4) The amount of any adjustment in the limitation on personnel made by the Secretary of Defense or the Secretary of a military department, and, for each adjustment made pursuant to section 1111(b)(2) of the Duncan Hunter National Defense Authorization Act for Fiscal Year 2009 (10 U.S.C. 143 note), the purpose of the adjustment.

(g) Not later than September 1 each year, the Secretary shall submit to Congress a report that sets forth a detailed discussion, current as of the preceding fiscal year, of the following:

(1) The progress made in implementing the plan required by section 656 of this title to accurately measure the efforts of the Department to reflect the diverse population of the United States eligible to serve in the armed forces.

(2) The number of members of the armed forces, including reserve components, listed by gender and race or ethnicity for each rank under each military department.

(3) The number of members of the armed forces, including reserve components, who were promoted during the fiscal year covered