

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 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 19;

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

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

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

(5)(A) The Chairman of the Joint Chiefs of Staff may designate up to 15 general and flag officer positions in the unified and specified combatant commands, and up to three general and flag officer positions on the Joint Staff, as positions to be held only by reserve component officers who are in a general or flag officer grade below lieutenant general or vice admiral. Each position so designated shall be considered to be a joint duty assignment position for purposes of chapter 38 of this title.

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

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

(i) the Secretary of Defense shall require the Secretary of the Army to submit the name of

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

(ii) the Chairman of the Joint Chiefs of Staff may submit to the Secretary of Defense the name of one or more officers (in addition to the officers whose names are submitted pursuant to clause (i)) for consideration by the Secretary for assignment to that position.

(D) Whenever the Secretaries of the military departments are required to submit the names of officers under subparagraph (C)(i), the Chairman of the Joint Chiefs of Staff shall submit to the Secretary of Defense the Chairman's evaluation of the performance of each officer whose name is submitted under that subparagraph (and of any officer whose name the Chairman submits to the Secretary under subparagraph (C)(ii) for consideration for the same vacancy).

(E) Subparagraph (B) does not apply in the case of an officer serving in a position designated under subparagraph (A) if the Secretary of Defense, when considering officers for assignment to fill the vacancy in that position which was filled by that officer, did not have a recommendation for that assignment from each Secretary of a military department who (pursuant to subparagraph (C)) was required to make such a recommendation.

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

(2) The limitations of this section also do not apply to a number, as specified by the Secretary of the military department concerned, of reserve component general or flag officers authorized to serve on active duty for a period of not more than 365 days. The number so specified for an armed force may not exceed the number equal to 10 percent of the authorized number of general or flag officers, as the case may be, of that armed force under section 12004 of this title. In determining such number, any fraction shall be rounded down to the next whole number, except that such number shall be at least one.

(3) 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 such officers from each reserve component who are covered by this paragraph and 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.

(d) EXCLUSION OF CERTAIN OFFICERS PENDING SEPARATION OR RETIREMENT OR BETWEEN SENIOR POSITIONS.—The limitations of this section do not apply to a general or flag officer who is covered by an exclusion under section 525(e) of this title.

(e) EXCLUSION OF ATTENDING PHYSICIAN TO THE CONGRESS.—The limitations of this section do

not apply to the general or flag officer who is serving as Attending Physician to the Congress.

(f) TEMPORARY EXCLUSION FOR ASSIGNMENT TO CERTAIN TEMPORARY BILLETS.—(1) The limitations in subsection (a) and in section 525(a) of this title do not apply to a general or flag officer assigned to a temporary joint duty assignment designated by the Secretary of Defense.

(2) A general or flag officer assigned to a temporary joint duty assignment as described in paragraph (1) may not be excluded under this subsection from the limitations in subsection (a) for a period of longer than one year.

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

(h) ACTIVE-DUTY BASELINE.—

(1) NOTICE AND WAIT REQUIREMENT.—If the Secretary of a military department proposes an action that would increase above the baseline the number of general officers or flag officers of an armed force under the jurisdiction of that Secretary who would be on active duty and would count against the statutory limit applicable to that armed force under subsection (a), the action shall not take effect until after the end of the 60-calendar day period beginning on the date on which the Secretary provides notice of the proposed action, including the rationale for the action, to the Committees on Armed Services of the House of Representatives and the Senate.

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

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

(B) the actual number of general officers or flag officers of that armed force who, as of January 1, 2014, counted toward the statutory limit of general officers or flag officers of that armed force under subsection (a).

(3) LIMITATION.—If, at any time, the actual number of general officers or flag officers of an armed force who count toward the statutory limit of general officers or flag officers of that armed force under subsection (a) exceeds such statutory limit, then no increase described in paragraph (1) for that armed force may occur until the general officer or flag officer total for that armed force is reduced below such statutory limit.

(i) JOINT DUTY ASSIGNMENT BASELINE.—

(1) NOTICE AND WAIT REQUIREMENT.—If the Secretary of Defense, the Secretary of a military department, or the Chairman of the Joint Chiefs of Staff proposes an action that would increase above the baseline the number of general officers and flag officers of the armed forces in joint duty assignments who count

against the statutory limit under subsection (b)(1), the action shall not take effect until after the end of the 60-calendar day period beginning on the date on which the Secretary or Chairman, as the case may be, provides notice of the proposed action, including the rationale for the action, to the Committees on Armed Services of the House of Representatives and the Senate.

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

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

(B) the actual number of general officers and flag officers who, as of January 1, 2014, were in joint duty assignments counted toward the statutory limit under subsection (b)(1).

(3) LIMITATION.—If, at any time, the actual number of general officers and flag officers in joint duty assignments counted toward the statutory limit under subsection (b)(1) exceeds such statutory limit, then no increase described in paragraph (1) may occur until the number of general officers and flag officers in joint duty assignments is reduced below such statutory limit.

(j) ANNUAL REPORT ON GENERAL OFFICER AND FLAG OFFICER NUMBERS.—Not later than March 1, 2015, and each March 1 thereafter, the Secretary of Defense shall submit to the Committees on Armed Services of the House of Representatives and the Senate a report specifying—

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

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

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

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

(3) The total number of general officers and flag officers increased under paragraph (1), com-

bined with the total number of general officers and flag officers increased under section 526a(i)(1)<sup>1</sup> of this title, may not exceed 15 at any one time.

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

(A) such increase; and

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

(I) CESSATION OF APPLICABILITY.—The provisions of this section shall not apply to the number of general officers and flag officers in the armed forces after December 31, 2022. For provisions applicable to the number of such officers after that date, see section 526a of this title.

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

#### HISTORICAL AND REVISION NOTES

Section is based on 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.

Present law (section 811(a) of Public Law 95-79, as amended) provides that the authority to suspend the limitation on the number of general and flag officers who may be serving on active duty applies during war or national emergency. In codifying the limitation (in section 526 of title 10 as proposed to be added by section

1(b) of the bill), the committee determined that the same war and emergency waiver authority as applies to other limitations on the number of officers on active duty under the existing 10 U.S.C. 526 (redesignated as 10 U.S.C. 527 by the bill) should apply with respect to this limitation and accordingly amended the suspension authority in present law to include the codified general and flag officer limitation. This authority is slightly different from the waiver authority in the source law in that the suspension would expire 2 years after it takes effect or 1 year after the end of the war or national emergency, whichever occurs first, rather than upon termination of the war or emergency.

#### Editorial Notes

##### REFERENCES IN TEXT

Section 526a(i)(1) of this title, referred to in subsec. (k)(3), probably means the subsec. (i)(1) of section 526a of this title as added by section 501(b) of Pub. L. 117-81 and which relates to allowed increases in the number of certain officers.

##### PRIOR PROVISIONS

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

##### AMENDMENTS

2021—Subsec. (b)(3)(A). Pub. L. 116-283 substituted “19” for “20”.

Subsecs. (k), (l). Pub. L. 117-81 added subsec. (k) and redesignated former subsec. (k) as (l).

2019—Subsec. (k). Pub. L. 116-92 inserted “the” before “number of general officers”.

2016—Subsec. (a)(4). Pub. L. 114-328, §503(b), substituted “62” for “61”.

Subsec. (k). Pub. L. 114-328, §501(h)(2), added subsec. (k).

2013—Subsec. (a)(2). Pub. L. 112-239 substituted “162” for “160”.

Subsecs. (c) to (g). Pub. L. 113-66, §501(a)(1), redesignated subsecs. (d) to (h) as (c) to (g), respectively.

Subsecs. (h), (i). Pub. L. 113-66, §501(a)(2), added subsecs. (h) and (i). Former subsec. (h) redesignated (g).

Subsec. (j). Pub. L. 113-66, §501(b)(2), added subsec. (j).

2011—Subsec. (a)(1). Pub. L. 112-81, §502(b)(1)(A)(i), substituted “231” for “230”.

Subsec. (a)(2). Pub. L. 112-81, §502(b)(1)(A)(ii), which directed substitution of “161” for “160”, could not be executed because of the intervening amendment by Pub. L. 112-239. See 2013 Amendment note above.

Subsec. (a)(3). Pub. L. 112-81, §502(b)(1)(A)(iii), substituted “198” for “208”.

Subsec. (a)(4). Pub. L. 112-81, §502(b)(1)(A)(iv), substituted “61” for “60”.

Subsec. (b)(1). Pub. L. 112-81, §502(c)(1), substituted “310” for “324”.

Subsec. (b)(2)(C). Pub. L. 112-81, §502(b)(1)(B), substituted “73” for “76”.

2009—Subsec. (a). Pub. L. 111-84, §502(e), substituted “230” for “307” in par. (1), “160” for “216” in par. (2), “208” for “279” in par. (3), and “60” for “81” in par. (4).

Subsec. (b)(1). Pub. L. 111-84, §502(f)(1), substituted “Secretary of Defense” for “Chairman of the Joint Chiefs of Staff”, “324” for “65”, and “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.” for “Officers in positions so designated shall not be counted for the purposes of those limitations.”

Subsec. (b)(2) to (5). Pub. L. 111-84, §502(f)(2), (3), added pars. (2) to (4) and redesignated former par. (2) as (5).

Subsec. (d)(3). Pub. L. 111-84, §502(g)(1), added par. (3).

Subsecs. (g), (h). Pub. L. 111-84, §502(g)(2), added subsecs. (g) and (h).

2008—Subsec. (a)(1). Pub. L. 110-417, §503(a), substituted “307” for “302”.

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

Subsec. (a)(4). Pub. L. 110-417, § 503(b), substituted “81” for “80”.

Subsec. (b)(1). Pub. L. 110-417, § 503(c), substituted “65” for “12”.

Subsec. (b)(2)(A). Pub. L. 110-417, § 525, substituted “up to three general and flag officer positions” for “a general and flag officer position”.

Pub. L. 110-181, § 1824(c), substituted “15 general and flag officer positions in” for “10 general and flag officer positions on the staffs of the commanders of”.

Subsec. (d). Pub. L. 110-181, § 502, designated existing provisions as par. (1) and added par. (2).

2006—Subsec. (b)(2)(A). Pub. L. 109-163, § 510, inserted “, and a general and flag officer position on the Joint Staff,” after “combatant commands”.

Subsec. (b)(2)(C)(i). Pub. L. 109-163, § 515(b)(1)(C), substituted “Navy Reserve” for “Naval Reserve”.

Subsec. (d). Pub. L. 109-163, § 503(b)(2), substituted “Certain Reserve Officers” for “Certain Officers” in heading.

Subsec. (e). Pub. L. 109-163, § 503(b)(1), added subsec. (e).

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

2003—Subsec. (b)(3). Pub. L. 108-136 struck out par. (3) which read as follows: “This subsection shall cease to be effective on December 31, 2004.”

2002—Subsec. (b)(3). Pub. L. 107-314, § 405(c), substituted “December 31, 2004” for “October 1, 2002”.

Subsec. (c). Pub. L. 107-314, § 1041(a)(3), struck out heading and text of subsec. (c). Text read as follows:

“(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.”

#### Statutory Notes and Related Subsidiaries

##### 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.

##### TERMINATION OF REPORTING REQUIREMENTS

For termination, effective Dec. 31, 2021, of provisions in subsec. (j) of this section requiring submittal of annual report to Congress, see section 1061 of Pub. L. 114-328, set out as a note under section 111 of this title.

##### CONSTRUCTION OF DECREASE AS APPLYING TO GENERALS

Pub. L. 116-283, div. A, title V, § 501(c)(3), Jan. 1, 2021, 134 Stat. 3563, provided that: “The reduction in number of positions excluded from authorized strength limitations resulting from the amendment made by paragraph (2) [amending this section] shall apply to positions in the grade of general.”

##### 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.”

**§ 526a. Authorized strength after December 31, 2022: general officers 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, after December 31, 2022, may not exceed the number specified for the armed force concerned as follows:

- (1) For the Army, 220.
- (2) For the Navy, 151.
- (3) For the Air Force, 187.
- (4) For the Marine Corps, 62.

(b) LIMITED EXCLUSION FOR JOINT DUTY REQUIREMENTS.—

(1) IN GENERAL.—The Secretary of Defense may designate up to 232 general officer and flag officer positions that are joint duty assignments for purposes of chapter 38 of this title for exclusion from the limitations in subsection (a).

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

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

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

- (1) A general or flag officer of a reserve component who is on active duty—
  - (A) for training; or
  - (B) under a call or order specifying a period of less than 180 days.

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

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

(C) Each number described in subparagraph (B) may not exceed 10 percent of the number of general or flag officers, as the case may be, au-

thorized to serve in the armed force concerned under section 12004 of this title. In determining a number under this subparagraph, any fraction shall be rounded down to the next whole number that is greater than zero.

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

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

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

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

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

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

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

(2) DURATION OF EXCLUSION.—A general officer or flag officer assigned to a temporary joint duty assignment as described in paragraph (1) may not be excluded under this subsection from the limitations in subsection (a) for a period of longer than one year.

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

(g) ACTIVE-DUTY BASELINE.—

(1) NOTICE AND WAIT REQUIREMENTS.—If the Secretary of a military department proposes an action that would increase above the baseline the number of general officers or flag officers of an armed force under the jurisdiction of that Secretary who would be on active duty and would count against the statutory limit applicable to that armed force under sub-