SEC. ___. MODIFICATION OF THE AUTHORIZED NUMBER AND ACCOUNTING METHOD FOR SENIOR ENLISTED PERSONNEL.

(a) IN GENERAL.—Section 517 of title 10, United States Code, is amended—

(1) in the section heading, by striking "**daily average**" and inserting "**enlisted end strength**";

(2) in subsection (a)—

(A) by striking "daily average number of" and inserting "end strength for";

(B) by striking "in a fiscal year" and inserting "as of the last day of a fiscal year";

(C) by striking "2.5 percent" and inserting "3.0 percent"; and

(D) by striking "on the first day of that fiscal year"; and

(3) by adding at the end the following new subsection:

"(d) Notwithstanding the limitations of subsection (a), the Secretary of a military department may increase the authorized end strength of enlisted members on active duty (other than for training) in an armed force in pay grade E-8 or E-9 by a number equal to not more than 0.25 percent of such end strength when such Secretary determines that an increase in that end strength would enhance manning and readiness in essential units or in critical specialties or ratings.".

(b) CLERICAL AMENDMENT.—The table of chapters at the beginning of chapter 31 of such title is amended by striking the item relating to section 517 and inserting the following new item:

"517. Authorized enlisted end strength: members in pay grades E–8 and E–9.".

Please note: The following "Changes to Existing Law" section sets out in red-line format how the legislative text would amend existing law.

Section-by-Section Analysis

This proposal would change the method of calculating the authorized number of senior enlisted members in the grades of E-8 and E-9 from the daily average to an authorized end strength and would increase the authorized number of members in the grade of E-8 from 2.5 percent to 3.0 percent of the total number of enlisted members. Additionally, this proposal would authorize a Secretary of a military department to increase the authorized end strength of E-8s and E-9s by 0.25 percent when the Secretary of a military department determines that such an increase would enhance manning and readiness in essential units or in critical specialties or ratings.

Currently, section 517 limits the average daily strength of E-8s to 2.5 percent and E-9s to 1.25 percent of the total enlisted strength at the beginning of the fiscal year. The current metric (percent daily average number of enlisted members of the specified grade divided by the total enlisted strength at the first day of the fiscal year) is less flexible. By changing the method of calculating the authorized number of senior enlisted members, the military departments will have greater flexibility in determining the appropriate force structure.

Section 517 also limits the authorized number of members in the grade of E-8 to 2.5 percent of the total enlisted strength in a given armed force who are on active duty on the first day of a fiscal year. This limit is becoming too restrictive in today's modern high-tech Army, as the types of capabilities required for future conflicts are different from the past. The Army has seen a rise in the need for E-8s (as a proportion of the total enlisted force) from 2012 to 2018 for several reasons.

The leading factor was the drawdown from fiscal year 2012 (FY12) to FY16 where operational line units and support (mostly lower enlisted) were reduced. For example, a brigade combat team (BCT) has 52 E-8s, or 1.4 percent of the enlisted force. During the drawdown, the Army deactivated 14 BCTs, affecting over 50,000 enlisted authorizations. The reduction of BCTs disproportionately lowered the number of enlisted members in the Army, causing the active component Army E-8 percentage to increase by 0.2 percent.

Additionally, the types of units added were grade heavy (such as Special Forces, Cyber, and security force assistance brigades (SFABs)). For example, each SFAB has 31 E-8s, comprising 4.8 percent of enlisted members in the brigade. Over the Future Years Defense Program, the Army added six SFABs, increasing the E-8 rate by 0.11 percent. Additionally, the Army judiciously under-filled noncommissioned officer (NCO) ranks during the drawdown. The current growth and focus on readiness has reversed this practice, requiring an additional 500 E-8s and 100 E-9s. Promoting to required levels further increases the E-8 rate by 0.13 percent and E-9s by 0.03 percent. Finally, the calculation of the E-8 limit using beginning year strength is 0.08 percent higher than an end of year calculation.

The current limit of 2.5 percent for E-8s prevents the Army from fully manning the necessary formations, as determined by the deliberate and rigorous Total Army Analysis process, to support the current National Defense Policy.

Finally, this proposal would give the Secretaries of the military departments greater flexibility to enhance manning and readiness in essential units, like SFABs, or in critical specialties or ratings, like Cyber. Under section 517, the Secretaries of the military departments concerned lack the authority to exceed temporarily the authorized percentages of senior enlisted members. Furthermore, the Secretary of Defense may only suspend the limitations of section 517 when the President has suspended the operation of section 523, 525, or 526 of title 10, United States Code, in time of war or national emergency. This proposal would give flexibility to the Secretaries of the military departments when force structure changes, or unit missions require a greater number of senior enlisted members.

Budget Implications: The resources impacted are reflected in the table below and are included within the Fiscal Year (FY) 2021 President's Budget request. The amounts in the tables below represent the maximum possible cost and manning differential as a result of the proposed authority.

RESOURCE IMPACT ($MILLIONS)									
	FY 2021	**FY 2022**	**FY 2023**	**FY 2024**	**FY 2025**	**Appropriation**	**Budget Activity**	**BLI/ SAG**	**Program Element**
Army	53.7	55.3	57.0	58.2	59.4	Military Personnel, Army	02		
Navy	Navy does not intend to use this authority.								
Air Force	54.6	57.6	57.5	58.7	59.9	Military Personnel, Air Force	02		
Marines	Marines do not intend to use this authority.								
Total	87.7	90.4	93.0	95.2	97.4				

NUMBER OF PERSONNEL AFFECTED						
	FY 2021	**FY 2022**	**FY 2023**	**FY 2024**	**FY 2025**	**Appropriation From**
Army	1968	1979	1997	1996	1996	Military Personnel, Army
Navy	Navy does not intend to use this authority.					
Air Force	2001	2061	2014	2014	2014	Military Personnel, Air Force
Marines	Marines do not intend to use this authority.					
Total	3969	4040	4011	4010	4010	

Changes to Existing Law: This proposal would amend section 517 of title 10, United States Code, as follows:

§ 517. Authorized ~~daily average~~ <u>enlisted end strength</u>: members in pay grades E–8 and E–9

(a) The authorized ~~daily average number of~~ end strength for enlisted members on active duty (other than for training) in an armed force in pay grades E–8 and E–9 ~~in a fiscal year~~ as of the last day of a fiscal year may not be more than ~~2.5~~ 3.0 percent and 1.25 percent, respectively, of the number of enlisted members of that armed force who are on active duty (other than for training) ~~on the first day of that fiscal year~~. In computing the limitations prescribed in the preceding sentence, there shall be excluded enlisted members of an armed force on active duty as authorized under section 115(a)(1)(B) or 115(b) of this title, or excluded from counting for active duty end strengths under section 115(i) of this title.

(b) Whenever the number of members serving in pay grade E–9 is less than the number authorized for that grade under subsection (a), the difference between the two numbers may be applied to increase the number authorized under such subsection for pay grade E–8.

(c) Whenever under section 527 of this title the President may suspend the operation of any provision of section 523, 525, or 526 of this title, the Secretary of Defense may suspend the operation of any provision of this section. Any such suspension shall, if not sooner ended, end in the manner specified in section 527 for a suspension under that section.

(d) Notwithstanding the limitations of subsection (a), the Secretary of a military department may increase the authorized end strength of enlisted members on active duty (other than for training) in an armed force in pay grade E-8 or E-9 by a number equal to not more than 0.25 percent of such end strength when such Secretary determines that an increase in that end strength would enhance manning and readiness in essential units or in critical specialties or ratings.