

(2) an enlisted member of the Air National Guard of the United States may be transferred in grade to the Air Force Reserve.

(b) Upon such a transfer, the member transferred is eligible for promotion to the highest regular or reserve grade ever held by him in the Army, if transferred under subsection (a)(1), or the Air Force, if transferred under subsection (a)(2), if his service has been honorable.

(c) A transfer under this section may only be made with the consent of the governor or other appropriate authority of the State concerned.

(Added Pub. L. 103-337, div. A, title XVI, §1662(b)(1), Oct. 5, 1994, 108 Stat. 2988.)

#### PRIOR PROVISIONS

Provisions similar to those in this section were contained in sections 3259 and 8259 of this title, prior to repeal by Pub. L. 103-337, §1662(b)(3).

#### § 12106. Army and Air Force Reserve: transfer to upon withdrawal as member of National Guard

(a) An enlisted member of the Army National Guard of the United States who ceases to be a member of the Army National Guard becomes a member of the Army Reserve unless he is also discharged from his enlistment as a Reserve.

(b) An enlisted member of the Air National Guard of the United States who ceases to be a member of the Air National Guard becomes a member of the Air Force Reserve unless he is also discharged from his enlistment as a Reserve.

(c) An enlisted member who becomes a member of the Army Reserve or the Air Force Reserve under this section ceases to be a member of the Army National Guard of the United States or the Air National Guard of the United States, as the case may be.

(Added Pub. L. 103-337, div. A, title XVI, §1662(b)(1), Oct. 5, 1994, 108 Stat. 2989.)

#### PRIOR PROVISIONS

Provisions similar to those in this section were contained in sections 3260 and 8260 of this title, prior to repeal by Pub. L. 103-337, §1662(b)(3).

#### § 12107. Army National Guard of United States; Air National Guard of the United States: enlistment in

(a) Except as provided in subsection (c), to become an enlisted member of the Army National Guard of the United States or the Air National Guard of the United States, a person must—

(1) be enlisted in the Army National Guard or the Air National Guard, as the case may be;

(2) subscribe to the oath set forth in section 304 of title 32; and

(3) be a member of a federally recognized unit or organization of the Army National Guard or the Air National Guard, as the case may be, in the grade in which he is to be enlisted as a Reserve.

(b)(1) Under regulations to be prescribed by the Secretary of the Army, a person who enlists in the Army National Guard, or whose term of enlistment in the Army National Guard is extended, shall be concurrently enlisted, or his

term of enlistment shall be concurrently extended, as the case may be, as a Reserve of the Army for service in the Army National Guard of the United States.

(2) Under regulations to be prescribed by the Secretary of the Air Force, a person who enlists in the Air National Guard, or whose term of enlistment in the Air National Guard is extended, shall be concurrently enlisted, or his term of enlistment shall be concurrently extended, as the case may be, as a Reserve of the Air Force for service in the Air National Guard of the United States.

(c)(1) A member of the Army Reserve who enlists in the Army National Guard in his reserve grade, and is a member of a federally recognized unit or organization of the Army National Guard, becomes a member of the Army National Guard of the United States and ceases to be a member of the Army Reserve.

(2) A member of the Air Force Reserve who enlists in the Air National Guard in his reserve grade, and is a member of a federally recognized unit or organization of the Air National Guard, becomes a member of the Air National Guard of the United States and ceases to be a member of the Air Force Reserve.

(Added Pub. L. 103-337, div. A, title XVI, §1662(b)(1), Oct. 5, 1994, 108 Stat. 2989.)

#### PRIOR PROVISIONS

Provisions similar to those in this section were contained in sections 3261 and 8261 of this title, prior to repeal by Pub. L. 103-337, §1662(b)(3).

#### § 12108. Enlisted members: discharge or retirement for years of service or for age

Each reserve enlisted member of the Army, Navy, Air Force, or Marine Corps who is in an active status and has reached the maximum years of service or age prescribed by the Secretary concerned shall—

(1) be transferred to the Retired Reserve if the member is qualified for such transfer and does not request (in accordance with regulations prescribed by the Secretary concerned) not to be transferred to the Retired Reserve; or

(2) be discharged if the member is not qualified for transfer to the Retired Reserve or has requested (in accordance with regulations prescribed by the Secretary concerned) not to be so transferred.

(Added Pub. L. 107-107, div. A, title V, §517(f)(1), Dec. 28, 2001, 115 Stat. 1095.)

#### EFFECTIVE DATE

Section effective on the first day of the first month that begins more than 180 days after Dec. 28, 2001, see section 517(g) of Pub. L. 107-107, set out as an Effective Date of 2001 Amendment note under section 10154 of this title.

#### CHAPTER 1205—APPOINTMENT OF RESERVE OFFICERS

Sec. 12201.	Reserve officers: qualifications for appointment.
12202.	Commissioned officer grades.
12203.	Commissioned officers: appointment, how made; term.