

out “after the preceding sentence takes effect” after “If at any time”.

Subsec. (c)(3). Pub. L. 111-383, § 513(b), added par. (3).
 Subsec. (d). Pub. L. 111-383, § 513(a)(2), added subsec. (d).

2003—Subsec. (c)(1). Pub. L. 108-136 substituted “may not exceed 595 and by the Air Force Reserve may not exceed 90” for “and Air Force Reserve may not exceed 175”.

2002—Subsec. (c)(2). Pub. L. 107-314 substituted “The total number” for “Effective October 1, 2002, the total number” in first sentence and struck out “after the preceding sentence takes effect” after “If at any time” in second sentence.

2000—Subsec. (c)(2). Pub. L. 106-398 substituted “October 1, 2002” for “October 1, 2001”.

1999—Pub. L. 106-65, § 523(b), struck out “military” after “status” in section catchline.

Subsec. (a). Pub. L. 106-65, § 523(a)(1)(A), struck out “military” after “non-dual status” in introductory provisions.

Subsec. (a)(1), (2). Pub. L. 106-65, § 523(a)(1)(B), added pars. (1) and (2) and struck out former pars. (1) and (2) which read as follows:

“(1) was hired as a military technician before the date of the enactment of the National Defense Authorization Act for Fiscal Year 1998 under any of the authorities specified in subsection (c); and

“(2) as of the date of the enactment of that Act is not a member of the Selected Reserve or after such date ceased to be a member of the Selected Reserve.”

Subsec. (c). Pub. L. 106-65, § 523(a)(2), added subsec. (c).

EFFECTIVE DATE OF 1999 AMENDMENT

Pub. L. 106-65, div. A, title V, § 525, Oct. 5, 1999, 113 Stat. 600, provided that: “The amendments made by sections 523 and 524 [amending this section and section 709 of Title 32, National Guard] shall take effect 180 days after the date of the receipt by Congress of the plan required by section 523(d) of the National Defense Authorization Act for Fiscal Year 1998 (Public Law 105-85; 111 Stat. 1737) [set out below] [plan received by Congress from Under Secretary of Defense, Personnel and Readiness on Sept. 21, 1999, see Cong. Rec., vol. 145, pt. 15, 21975, Ex. Comm. 4276] or a report by the Secretary of Defense providing an alternative proposal to the plan required by that section.”

PLAN FOR FULL UTILIZATION OF MILITARY TECHNICIANS (DUAL STATUS)

Section 523(d), (e) of Pub. L. 105-85 provided that:

“(d) PLAN FOR FULL UTILIZATION OF MILITARY TECHNICIANS (DUAL STATUS).—(1) Not later than 180 days after the date of the enactment of this Act [Nov. 18, 1997], the Secretary of Defense shall submit to Congress a plan for ensuring that, on and after September 30, 2007, all military technician positions are held only by military technicians (dual status).

“(2) The plan shall provide for achieving, by September 30, 2002, a 50 percent reduction, by conversion of positions or otherwise, in the number of non-dual status military technicians that are holding military technicians positions, as compared with the number of non-dual status technicians that held military technician positions as of September 30, 1997, as specified in the report under subsection (c) [111 Stat. 1737].

“(3) Among the alternative actions to be considered in developing the plan, the Secretary shall consider the feasibility and cost of each of the following:

“(A) Eliminating or consolidating technician functions and positions.

“(B) Contracting with private sector sources for the performance of functions performed by military technicians.

“(C) Converting non-dual status military technician positions to military technician (dual status) positions or to positions in the competitive service or, in the case of positions of the Army National Guard

of the United States or the Air National Guard of the United States, to positions of State employment.

“(D) Use of incentives to facilitate attainment of the objectives specified for the plan in paragraphs (1) and (2).

“(4) The Secretary shall submit with the plan any recommendations for legislation that the Secretary considers necessary to carry out the plan.

“(e) DEFINITIONS FOR CATEGORIES OF MILITARY TECHNICIANS.—In this section [enacting this section]:

“(1) The term ‘non-dual status military technician’ has the meaning given that term in section 10217 of title 10, United States Code, as added by subsection (a).

“(2) The term ‘military technician (dual status)’ has the meaning given the term in section 10216(a) of such title.”

§ 10218. Army and Air Force Reserve technicians: conditions for retention; mandatory retirement under civil service laws

(a) SEPARATION AND RETIREMENT OF MILITARY TECHNICIANS (DUAL STATUS).—(1) An individual employed by the Army Reserve or the Air Force Reserve as a military technician (dual status) who after October 5, 1999, loses dual status is subject to paragraph (2) or (3), as the case may be.

(2) If a technician described in paragraph (1) is eligible at the time dual status is lost for an unreduced annuity and is age 60 or older at that time, the technician shall be separated not later than 30 days after the date on which dual status is lost.

(3)(A) If a technician described in paragraph (1) is not eligible at the time dual status is lost for an unreduced annuity or is under age 60 at that time, the technician shall be offered the opportunity to—

(i) reapply for, and if qualified be appointed to, a position as a military technician (dual status); or

(ii) apply for a civil service position that is not a technician position.

(B) If such a technician continues employment with the Army Reserve or the Air Force Reserve as a non-dual status technician, the technician—

(i) shall not be permitted, after October 5, 2000, to apply for any voluntary personnel action; and

(ii) shall be separated or retired—

(I) in the case of a technician first hired as a military technician (dual status) on or before February 10, 1996, not later than 30 days after becoming eligible for an unreduced annuity and becoming 60 years of age; and

(II) in the case of a technician first hired as a military technician (dual status) after February 10, 1996, not later than one year after the date on which dual status is lost.

(4) For purposes of this subsection, a military technician is considered to lose dual status upon—

(A) being separated from the Selected Reserve; or

(B) ceasing to hold the military grade specified by the Secretary concerned for the position held by the technician.

(b) NON-DUAL STATUS TECHNICIANS.—(1) An individual who on October 5, 1999, is employed by

the Army Reserve or the Air Force Reserve as a non-dual status technician and who on that date is eligible for an unreduced annuity and is age 60 or older shall be separated not later than April 5, 2000.

(2)(A) An individual who on October 5, 1999, is employed by the Army Reserve or the Air Force Reserve as a non-dual status technician and who on that date is not eligible for an unreduced annuity or is under age 60 shall be offered the opportunity to—

- (i) reapply for, and if qualified be appointed to, a position as a military technician (dual status); or
- (ii) apply for a civil service position that is not a technician position.

(B) If such a technician continues employment with the Army Reserve or the Air Force Reserve as a non-dual status technician, the technician—

- (i) shall not be permitted, after October 5, 2000, to apply for any voluntary personnel action; and
- (ii) shall be separated or retired—

(I) in the case of a technician first hired as a technician on or before February 10, 1996, and who on October 5, 1999, is a non-dual status technician, not later than 30 days after becoming eligible for an unreduced annuity and becoming 60 years of age; and

(II) in the case of a technician first hired as a technician after February 10, 1996, and who on October 5, 1999, is a non-dual status technician, not later than one year after the date on which dual status is lost.

(3) An individual employed by the Army Reserve or the Air Force Reserve as a non-dual status technician who is ineligible for appointment to a military technician (dual status) position, or who decides not to apply for appointment to such a position, or who, during the period beginning on October 5, 1999, and ending on April 5, 2000, is not appointed to such a position, shall for reduction-in-force purposes be in a separate competitive category from employees who are military technicians (dual status).

(c) UNREDUCED ANNUITY DEFINED.—For purposes of this section, a technician shall be considered to be eligible for an unreduced annuity if the technician is eligible for an annuity under section 8336, 8412, or 8414 of title 5 that is not subject to a reduction by reason of the age or years of service of the technician.

(d) VOLUNTARY PERSONNEL ACTION DEFINED.—In this section, the term “voluntary personnel action”, with respect to a non-dual status technician, means any of the following:

- (1) The hiring, entry, appointment, reassignment, promotion, or transfer of the technician into a position for which the Secretary concerned has established a requirement that the person occupying the position be a military technician (dual status).
- (2) Promotion to a higher grade if the technician is in a position for which the Secretary concerned has established a requirement that the person occupying the position be a military technician (dual status).

(Added Pub. L. 106-65, div. A, title V, §522(a)(1), Oct. 5, 1999, 113 Stat. 595; amended Pub. L.

106-398, §1 [[div. A], title V, §525(a), title X, §1087(a)(20)], Oct. 30, 2000, 114 Stat. 1654, 1654A-108, 1654A-291.)

AMENDMENTS

2000—Subsec. (a)(1). Pub. L. 106-398, §1 [[div. A], title X, §1087(a)(20)(A)], substituted “October 5, 1999,” for “the date of the enactment of this section”.

Subsec. (a)(2). Pub. L. 106-398, §1 [[div. A], title V, §525(a)(1)(A)], inserted “and is age 60 or older at that time” after “unreduced annuity”.

Subsec. (a)(3)(A). Pub. L. 106-398, §1 [[div. A], title V, §525(a)(1)(B)], inserted “or is under age 60 at that time” after “unreduced annuity” in introductory provisions.

Subsec. (a)(3)(B)(i). Pub. L. 106-398, §1 [[div. A], title X, §1087(a)(20)(B)], substituted “October 5, 2000” for “the end of the one-year period beginning on the date of the enactment of this subsection”.

Subsec. (a)(3)(B)(ii)(I). Pub. L. 106-398, §1 [[div. A], title V, §525(a)(1)(C)], inserted “and becoming 60 years of age” after “unreduced annuity”.

Subsec. (b)(1). Pub. L. 106-398, §1 [[div. A], title X, §1087(a)(20)(A), (C)], substituted “October 5, 1999,” for “the date of the enactment of this section” and “April 5, 2000” for “six months after the date of the enactment of this section”.

Pub. L. 106-398, §1 [[div. A], title V, §525(a)(2)(A)], inserted “and is age 60 or older” after “unreduced annuity”.

Subsec. (b)(2)(A). Pub. L. 106-398, §1 [[div. A], title X, §1087(a)(20)(A)], substituted “October 5, 1999,” for “the date of the enactment of this section” in introductory provisions.

Pub. L. 106-398, §1 [[div. A], title V, §525(a)(2)(B)], inserted “or is under age 60” after “unreduced annuity” in introductory provisions.

Subsec. (b)(2)(B)(i). Pub. L. 106-398, §1 [[div. A], title X, §1087(a)(20)(B)], substituted “October 5, 2000” for “the end of the one-year period beginning on the date of the enactment of this subsection”.

Subsec. (b)(2)(B)(ii). Pub. L. 106-398, §1 [[div. A], title X, §1087(a)(20)(A)], substituted “October 5, 1999,” for “the date of the enactment of this section” in subcls. (I) and (II).

Subsec. (b)(2)(B)(ii)(I). Pub. L. 106-398, §1 [[div. A], title V, §525(a)(2)(C)], inserted “and becoming 60 years of age” after “unreduced annuity”.

Subsec. (b)(3). Pub. L. 106-398, §1 [[div. A], title X, §1087(a)(20)(D)], substituted “during the period beginning on October 5, 1999, and ending on April 5, 2000,” for “within six months of the date of the enactment of this section”.

TRANSITION PROVISION

Pub. L. 106-398, §1 [[div. A], title V, §525(b)], Oct. 30, 2000, 114 Stat. 1654, 1654A-109, as amended by Pub. L. 107-107, div. A, title X, §1048(f)(1), Dec. 28, 2001, 115 Stat. 1228, provided that:

“(1) An individual who before the date of the enactment of this Act [Oct. 30, 2000] was involuntarily separated or retired from employment as an Army Reserve or Air Force Reserve technician under section 10218 of title 10, United States Code, and who would not have been so separated if the provisions of subsections (a) and (b) of that section, as amended by subsection (a), had been in effect at the time of such separation may, with the approval of the Secretary concerned, be reinstated to the technician status held by that individual immediately before that separation. The effective date of any such reinstatement is the date the employee resumes technician status.

“(2) The authority under paragraph (1) applies only to reinstatement for which an application is received by the Secretary concerned before the end of the one-year period beginning on the date of the enactment of this Act [Oct. 30, 2000].”

TEMPORARY PROVISION FOR EXTENSION OF TIME FOR SEPARATION OR RETIREMENT

Pub. L. 106-65, div. A, title V, §522(a)(3), Oct. 5, 1999, 113 Stat. 597, provided that: “During the six-month pe-

riod beginning on the date of the enactment of this Act [Oct. 5, 1999], the provisions of subsections (a)(3)(B)(ii)(I) and (b)(2)(B)(ii)(I) of section 10218 of title 10, United States Code, as added by paragraph (1), shall be applied by substituting 'six months' for '30 days'."

CHAPTER 1009—RESERVE FORCES POLICY BOARDS AND COMMITTEES

Sec.	
10301.	Reserve Forces Policy Board.
10302.	Army Reserve Forces Policy Committee.
10303.	Navy Reserve Policy Board.
10304.	Marine Corps Reserve Policy Board.
10305.	Air Force Reserve Forces Policy Committee.

AMENDMENTS

2006—Pub. L. 109-163, div. A, title V, §515(b)(4)(G), Jan. 6, 2006, 119 Stat. 3235, substituted "Navy Reserve" for "Naval Reserve" in item 10303.

§ 10301. Reserve Forces Policy Board

(a) IN GENERAL.—As provided in section 175 of this title, there is in the Office of the Secretary of Defense a board known as the "Reserve Forces Policy Board" (in this section referred to as the "Board").

(b) FUNCTIONS.—The Board shall serve as an independent adviser to the Secretary of Defense to provide advice and recommendations to the Secretary on strategies, policies, and practices designed to improve and enhance the capabilities, efficiency, and effectiveness of the reserve components.

(c) MEMBERSHIP.—The Board consists of 20 members, appointed or designated as follows:

(1) A civilian appointed by the Secretary of Defense from among persons determined by the Secretary to have the knowledge of, and experience in, policy matters relevant to national security and reserve component matters necessary to carry out the duties of chair of the Board, who shall serve as chair of the Board.

(2) Two active or retired reserve officers or enlisted members designated by the Secretary of Defense upon the recommendation of the Secretary of the Army—

(A) one of whom shall be a member of the Army National Guard of the United States or a former member of the Army National Guard of the United States in the Retired Reserve; and

(B) one of whom shall be a member or retired member of the Army Reserve.

(3) Two active or retired reserve officers or enlisted members designated by the Secretary of Defense upon the recommendation of the Secretary of the Navy—

(A) one of whom shall be an active or retired officer of the Navy Reserve; and

(B) one of whom shall be an active or retired officer of the Marine Corps Reserve.

(4) Two active or retired reserve officers or enlisted members designated by the Secretary of Defense upon the recommendation of the Secretary of the Air Force—

(A) one of whom shall be a member of the Air National Guard of the United States or a former member of the Air National Guard of the United States in the Retired Reserve; and

(B) one of whom shall be a member or retired member of the Air Force Reserve.

(5) One active or retired reserve officer or enlisted member of the Coast Guard designated by the Secretary of Homeland Security.

(6) Ten persons appointed or designated by the Secretary of Defense, each of whom shall be a United States citizen having significant knowledge of and experience in policy matters relevant to national security and reserve component matters and shall be one of the following:

(A) An individual not employed in any Federal or State department or agency.

(B) An individual employed by a Federal or State department or agency.

(C) An officer of a regular component of the armed forces on active duty, or an officer of a reserve component of the armed forces in an active status, who—

(i) is serving or has served in a senior position on the Joint Staff, the headquarters staff of a combatant command, or the headquarters staff of an armed force; and

(ii) has experience in joint professional military education, joint qualification, and joint operations matters.

(7) A reserve officer of the Army, Navy, Air Force, or Marine Corps who is a general or flag officer recommended by the chair and designated by the Secretary of Defense, who shall serve without vote—

(A) as military adviser to the chair;

(B) as military executive officer of the Board; and

(C) as supervisor of the operations and staff of the Board.

(8) A senior enlisted member of a reserve component recommended by the chair and designated by the Secretary of Defense, who shall serve without vote as enlisted military adviser to the chair.

(d) MATTERS TO BE ACTED ON.—The Board may act on those matters referred to it by the chair and on any matter raised by a member of the Board or the Secretary of Defense.

(e) STAFF.—The Board shall be supported by a staff consisting of one full-time officer from each of the reserve components listed in paragraphs (1) through (6) of section 10101 of this title who holds the grade of colonel (or in the case of the Navy, the grade of captain) or who has been selected for promotion to that grade. These officers shall also serve as liaisons between their respective components and the Board. They shall perform their staff and liaison duties under the supervision of the military executive officer of the Board in an independent manner reflecting the independent nature of the Board.

(f) RELATIONSHIP TO SERVICE RESERVE POLICY COMMITTEES AND BOARDS.—This section does not affect the committees and boards prescribed within the military departments by sections 10302 through 10305 of this title, and a member of such a committee or board may, if otherwise eligible, be a member of the Board.

(Added Pub. L. 103-337, div. A, title XVI, §1661(b)(1), Oct. 5, 1994, 108 Stat. 2980; amended