

111<sup>TH</sup> CONGRESS  
1<sup>ST</sup> SESSION

# H. R. 3345

To amend titles 5, 10, and 32, United States Code, to eliminate inequities in the treatment of National Guard technicians, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

JULY 27, 2009

Mr. ANDREWS introduced the following bill; which was referred to the Committee on Armed Services, and in addition to the Committee on Oversight and Government Reform, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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## A BILL

To amend titles 5, 10, and 32, United States Code, to eliminate inequities in the treatment of National Guard technicians, and for other purposes.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

3       **SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “National Guard Tech-  
5       nician Equity Act”.

1 **SEC. 2. TITLES 10 AND 32, UNITED STATES CODE, AMEND-**  
2 **MENTS REGARDING NATIONAL GUARD TECH-**  
3 **NICIANS.**

4 (a) **AUTHORITY TO EMPLOY TECHNICIAN AS NON-**  
5 **DUAL STATUS TECHNICIAN AFTER 20 YEARS OF CRED-**  
6 **ITABLE SERVICE.**—Subsection (c) of section 709 of title  
7 32, United States Code, is amended to read as follows:

8 “(c) A person may be employed under subsection (a)  
9 as a non-dual status technician (as defined by section  
10 10217 of title 10) if—

11 “(1) the technician position occupied by the  
12 person has been designated by the Secretary con-  
13 cerned to be filled only by a non-dual status techni-  
14 cian; or

15 “(2) the person occupying the technician posi-  
16 tion has at least 20 years of creditable service as a  
17 military technician (dual status).”.

18 (b) **EXCEPTION TO DUAL-STATUS EMPLOYMENT**  
19 **CONDITION OF MEMBERSHIP IN SELECTED RESERVE.**—  
20 Section 10216 of title 10, United States Code, is amend-  
21 ed—

22 (1) in subsection (a)(1)(B), by inserting “sub-  
23 ject to subsection (d),” before “is required”; and

24 (2) in subsection (d)(1), by striking “Unless  
25 specifically exempted by law” and inserting “Except

1 as provided in section 709(c)(2) of title 32 or as oth-  
2 erwise specifically exempted by law”.

3 (c) CONTINUED COMPENSATION AFTER LOSS OF  
4 MEMBERSHIP IN SELECTED RESERVE.—Subsection (e) of  
5 section 10216 of title 10, United States Code, is amended  
6 to read as follows:

7 “(e) CONTINUED COMPENSATION AFTER LOSS OF  
8 MEMBERSHIP IN SELECTED RESERVE.—Funds appro-  
9 priated for the Department of Defense may continue to  
10 be used to provide compensation to a military technician  
11 who was hired as a military technician (dual status), but  
12 who is no longer a member of the Selected Reserve. The  
13 compensation may be provided for a period up to 12  
14 months following the technician’s loss of membership in  
15 the Selected Reserve.”.

16 (d) REPEAL OF PERMANENT LIMITATIONS ON NUM-  
17 BER OF NON-DUAL STATUS TECHNICIANS.—Section  
18 10217 of title 10, United States Code, is amended by  
19 striking subsection (c).

20 (e) TECHNICIAN APPEAL AND SENIORITY RIGHTS.—  
21 Section 709 of title 32, United States Code, is amended—

22 (1) in subsection (f)—

23 (A) by inserting “and” at the end of para-  
24 graph (3);

25 (B) by striking paragraph (4); and

1 (C) by redesignating paragraph (5) as  
2 paragraph (4); and

3 (2) in subsection (g), by striking “2108, 3502,  
4 7511, and 7512” and inserting “2108 and 7511”.

5 (f) AVAILABILITY OF CERTAIN ENLISTMENT, REEN-  
6 LISTMENT, AND STUDENT LOAN BENEFITS FOR MILI-  
7 TARY TECHNICIANS.—Section 10216 of title 10, United  
8 States Code, is amended by adding at the end the fol-  
9 lowing new subsection:

10 “(h) ELIGIBILITY FOR BONUSES AND OTHER BENE-  
11 FITS.—(1) If an individual is first employed as a military  
12 technician (dual status) while the individual is already a  
13 member of a reserve component, the Secretary concerned  
14 may not require the individual to repay any enlistment,  
15 reenlistment, or affiliation bonus provided to the indi-  
16 vidual in connection with the individual’s enlistment or re-  
17 enlistment before such employment.

18 “(2) Even though an individual employed as a mili-  
19 tary technician (dual status) is required as a condition of  
20 that employment to maintain membership in the Selected  
21 Reserve, the individual shall not be precluded from receiv-  
22 ing an enlistment, reenlistment, or affiliation bonus nor  
23 be denied the opportunity to participate in an educational  
24 loan repayment program under chapter 1609 of this title

1 as an additional incentive for the individual to accept and  
2 maintain such membership”.

3 (g) REPEAL OF PROHIBITION AGAINST OVERTIME  
4 PAY FOR NATIONAL GUARD TECHNICIANS.—

5 (1) AUTHORITY FOR SECRETARY TO GRANT  
6 OVERTIME PAY.—Section 709(h) of title 32, United  
7 States Code, is amended by striking the second sen-  
8 tence and inserting the following new sentence: “The  
9 Secretary concerned shall pay a technician for irreg-  
10 ular or overtime work at a rate equal to one and  
11 one-half times the rate of basic pay applicable to the  
12 technician, except that, at the request of the techni-  
13 cian, the Secretary may grant the technician, instead  
14 of such pay, an amount of compensatory time off  
15 from the technician’s scheduled tour of duty equal to  
16 the amount of time spent in such irregular or over-  
17 time work.”.

18 (2) EFFECTIVE DATE.—The amendment made  
19 by paragraph (1) shall apply with respect to irreg-  
20 ular or overtime work performed by an employee  
21 subject to section 709 of title 32, United States  
22 Code, on or after the date of the enactment of this  
23 Act.

24 (h) EXTENDED DEPLOYMENT BONUS FOR MILITARY  
25 TECHNICIANS.—Section 709 of title 32, United States

1 Code, is amended by adding at the end the following new  
2 subsection:

3 “(j) A person employed as a military technician who  
4 is called or ordered to active duty in support of an over-  
5 seas contingency operation shall receive a bonus in the  
6 amount of \$100 for each day of such duty in excess of  
7 180 days.”.

8 (i) **RETENTION OF MILITARY TECHNICIANS WHO**  
9 **LOSE DUAL STATUS DUE TO COMBAT-RELATED DIS-**  
10 **ABILITY.**—Section 10216(g) of title 10, United States  
11 Code, is amended—

12 (1) in paragraph (1), by striking “may” in the  
13 matter preceding subparagraph (A) and inserting  
14 “shall”; and

15 (2) by striking paragraph (3).

16 (j) **REDUCTION IN ELIGIBILITY AGE FOR RETIRE-**  
17 **MENT FOR NON-REGULAR SERVICE.**—Section 12731(f) of  
18 title 10, United States Code, is amended by striking “60  
19 years of age” both places it appears and inserting “55  
20 years of age”.

21 **SEC. 3. TITLE 5, UNITED STATES CODE, AMENDMENTS RE-**  
22 **GARDING NATIONAL GUARD TECHNICIANS.**

23 (a) **RETIREMENT.**—

1           (1) AMENDMENT TO FERS.—Subsection (c) of  
2           section 8414 of title 5, United States Code, is  
3           amended to read as follows:

4           “(c) An employee who is separated from service as  
5 a military technician (dual status)—

6           “(1) after completing 25 years of service as  
7           such a technician, or

8           “(2) after becoming 50 years of age and com-  
9           pleting 20 years of service as such a technician,

10 is entitled to an annuity, if the separation is by reason  
11 of either separating from the Selected Reserve or ceasing  
12 to hold the military grade specified by the Secretary con-  
13 cerned for the position involved, and is not by removal for  
14 cause on charges of misconduct or delinquency.”.

15           (2) AMENDMENT TO CSRS.—Section 8336 of  
16           title 5, United States Code, is amended by adding  
17           at the end the following new subsection:

18           “(q) An employee who is separated from service as  
19 a military technician (dual status)—

20           “(1) after completing 25 years of service as  
21           such a technician, or

22           “(2) after becoming 50 years of age and com-  
23           pleting 20 years of service as such a technician,

24 is entitled to an annuity, if the separation is by reason  
25 of either separating from the Selected Reserve or ceasing

1 to hold the military grade specified by the Secretary con-  
2 cerned for the position involved, and is not by removal for  
3 cause on charges of misconduct or delinquency.”.

4           (3) EFFECTIVE DATE.—The amendments made  
5 by this subsection shall apply with respect to separa-  
6 tions from service as a military technician (dual sta-  
7 tus) occurring on or after the date of the enactment  
8 of this Act.

9           (b) MILITARY LEAVE.—Section 6323(a)(1) of title 5,  
10 United States Code, is amended by striking “15 days”  
11 each place it appears and inserting “30 days”.

12           (c) HEALTH BENEFITS.—Subparagraph (B) of sec-  
13 tion 8906(e)(3) of title 5, United States Code, is amended  
14 to read as follows:

15           “(B) An employee referred to in subparagraph (A)  
16 is an employee who—

17                   “(i) is enrolled in a health benefits plan under  
18 this chapter;

19                   “(ii) is a member of a Reserve component of  
20 the Armed Forces;

21                   “(iii) is placed on leave without pay or sepa-  
22 rated from service to perform the active duty or  
23 other duties described in clause (iv); and

24                   “(iv) is called or ordered to—



1           “(I) active duty in support of a contin-  
2           gency operation (as defined in section  
3           101(a)(13) of title 10);

4           “(II) active duty for a period of more than  
5           30 consecutive days;

6           “(III) active duty under section 12406 of  
7           title 10, United States Code;

8           “(IV) perform training or other duties de-  
9           scribed under paragraph (1) or (2) of section  
10          502(f) of title 32; or

11          “(V) while not in Federal service, perform  
12          duties related to an emergency declared by the  
13          chief executive of a State, the District of Co-  
14          lumbia, the Commonwealth of Puerto Rico, or  
15          a territory or possession of the United States.”.

16          (d) STUDY AND REPORT.—

17           (1) IN GENERAL.—Within 6 months after the  
18          date of the enactment of this Act, the Secretary of  
19          Defense and the Director of the Office of Personnel  
20          Management shall jointly conduct a study and sub-  
21          mit to Congress a report concerning the problems  
22          associated with the conversion of military techni-  
23          cians from FEHBP coverage to coverage provided  
24          under chapter 55 of title 10, United States Code,  
25          during contingency operations.

1           (2) DEFINITIONS.—For purposes of this sub-  
2 section—

3           (A) the term “FEHBP coverage” means  
4 coverage provided under chapter 89 of title 5,  
5 United States Code; and

6           (B) the term “contingency operation” has  
7 the meaning given that term in section  
8 101(a)(13) of title 10, United States Code.

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