

106TH CONGRESS  
2D SESSION

# H. R. 4361

To amend title 10, United States Code, to extend to National Guard military technicians the applicability of certain provisions concerning separation and retirement of Army Reserve and Air Force Reserve military technicians.

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## IN THE HOUSE OF REPRESENTATIVES

MAY 2, 2000

Mr. PETERSON of Minnesota introduced the following bill; which was referred to the Committee on Armed Services, and in addition to the Committee on 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 title 10, United States Code, to extend to National Guard military technicians the applicability of certain provisions concerning separation and retirement of Army Reserve and Air Force Reserve military technicians.

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

1 **SECTION 1. SEPARATION AND RETIREMENT OF NATIONAL**  
2 **GUARD MILITARY TECHNICIANS ON SAME**  
3 **BASIS ON RESERVE TECHNICIANS.**

4 (a) IN GENERAL.—(1) Chapter 1007 of title 10,  
5 United States Code, is amended by adding at the end the  
6 following new section:

7 **“§ 10219. National Guard technicians: conditions for**  
8 **retention; mandatory retirement under**  
9 **civil service laws**

10 “(a) SEPARATION AND RETIREMENT OF MILITARY  
11 TECHNICIANS (DUAL STATUS).—(1) An individual em-  
12 ployed by the Department of the Army or the Department  
13 of the Air Force under section 709 of title 32 as a military  
14 technician (dual status) who after the date of the enact-  
15 ment of this section loses dual status is subject to para-  
16 graph (2) or (3), as the case may be.

17 “(2) If a technician described in paragraph (1) is eli-  
18 gible at the time dual status is lost for an unreduced annu-  
19 ity, the technician shall be separated not later than 30  
20 days after the date on which dual status is lost.

21 “(3)(A) If a technician described in paragraph (1) is  
22 not eligible at the time dual status is lost for an unreduced  
23 annuity, the technician shall be offered the opportunity  
24 to—

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

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

6           “(B) If such a technician continues employment with  
7 the Department of the Army or the Department of the  
8 Air Force as a non-dual status technician, the  
9 technician—

10           “(i) shall not be permitted, after the end of the  
11 one-year period beginning on the date of the enact-  
12 ment of this section, to apply for any voluntary per-  
13 sonnel action; and

14           “(ii) shall be separated or retired—

15           “(I) in the case of a technician first hired  
16 as a military technician (dual status) on or be-  
17 fore February 10, 1996, not later than 30 days  
18 after becoming eligible for an unreduced annu-  
19 ity; and

20           “(II) in the case of a technician first hired  
21 as a military technician (dual status) after Feb-  
22 ruary 10, 1996, not later than one year after  
23 the date on which dual status is lost.

24           “(4) For purposes of this subsection, a military tech-  
25 nician is considered to lose dual status upon—

1           “(A) being separated from the Selected Re-  
2           serve; or

3           “(B) ceasing to hold the military grade speci-  
4           fied by the Secretary concerned for the position held  
5           by the technician.

6           “(b) NON-DUAL STATUS TECHNICIANS.—(1) An in-  
7           dividual who on the date of the enactment of this section  
8           is employed by the Department of the Army or the De-  
9           partment of the Air Force under section 709 of title 32  
10          as a non-dual status technician and who on that date is  
11          eligible for an unreduced annuity shall be separated not  
12          later than six months after the date of the enactment of  
13          this section.

14          “(2)(A) An individual who on the date of the enact-  
15          ment of this section is employed by the Department of  
16          the Army or the Department of the Air Force under sec-  
17          tion 709 of title 32 as a non-dual status technician and  
18          who on that date is not eligible for an unreduced annuity  
19          shall be offered the opportunity to—

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

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

1       “(B) If such a technician continues employment with  
2 the Department of the Army or the Department of the  
3 Air Force under section 709 of title 32 as a non-dual sta-  
4 tus technician, the technician—

5           “(i) shall not be permitted, after the end of the  
6 one-year period beginning on the date of the enact-  
7 ment of this section, to apply for any voluntary per-  
8 sonnel action; and

9           “(ii) shall be separated or retired—

10           “(I) in the case of a technician first hired  
11 as a technician on or before February 10, 1996,  
12 and who on the date of the enactment of this  
13 section is a non-dual status technician, not later  
14 than 30 days after becoming eligible for an un-  
15 reduced annuity; and

16           “(II) in the case of a technician first hired  
17 as a technician after February 10, 1996, and  
18 who on the date of the enactment of this sec-  
19 tion is a non-dual status technician, not later  
20 than one year after the date on which dual sta-  
21 tus is lost.

22       “(3) An individual employed by the Department of  
23 the Army or the Department of the Air Force under sec-  
24 tion 709 of title 32 as a non-dual status technician who  
25 is ineligible for appointment to a military technician (dual

1 status) position, or who decides not to apply for appoint-  
2 ment to such a position, or who, within six months of the  
3 date of the enactment of this section is not appointed to  
4 such a position, shall for reduction-in-force purposes be  
5 in a separate competitive category from employees who are  
6 military technicians (dual status).

7 “(c) UNREDUCED ANNUITY DEFINED.—For pur-  
8 poses of this section, a technician shall be considered to  
9 be eligible for an unreduced annuity if the technician is  
10 eligible for an annuity under section 8336, 8412, or 8414  
11 of title 5 that is not subject to a reduction by reason of  
12 the age or years of service of the technician.

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

17 “(1) The hiring, entry, appointment, reassign-  
18 ment, promotion, or transfer of the technician into  
19 a position for which the Secretary concerned has es-  
20 tablished a requirement that the person occupying  
21 the position be a military technician (dual status).

22 “(2) Promotion to a higher grade if the techni-  
23 cian is in a position for which the Secretary con-  
24 cerned has established a requirement that the person

1 occupying the position be a military technician (dual  
2 status).”.

3 (2) The table of sections at the beginning of such  
4 chapter is amended by adding at the end the following  
5 new item:

“10219. National Guard technicians: conditions for retention; mandatory retire-  
ment under civil service laws.”.

6 (3) During the six-month period beginning on the  
7 date of the enactment of this Act, the provisions of sub-  
8 sections (a)(3)(B)(ii)(I) and (b)(2)(B)(ii)(I) of section  
9 10219 of title 10, United States Code, as added by para-  
10 graph (1), shall be applied by substituting “six months”  
11 for “30 days”.

12 (b) EARLY RETIREMENT.—Section 8414(c)(1) of  
13 title 5, United States Code, is amended by striking  
14 “reserve” after “as a military”.

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