

105TH CONGRESS
1ST SESSION

S. 396

To amend titles 5 and 37, United States Code, to provide for the continuance of pay and the authority to make certain expenditures and obligations during lapses in appropriations.

IN THE SENATE OF THE UNITED STATES

MARCH 5, 1997

Ms. MIKULSKI (for herself and Mr. SARBANES) introduced the following bill; which was read twice and referred to the Committee on Governmental Affairs

A BILL

To amend titles 5 and 37, United States Code, to provide for the continuance of pay and the authority to make certain expenditures and obligations during lapses in appropriations.

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 “Federal Employee
5 Compensation Protection Act of 1997”.

1 **SEC. 2. CONTINUANCE OF CIVILIAN PAY DURING PERIODS**
 2 **OF LAPSED APPROPRIATIONS.**

3 (a) CONTINUANCE OF PAY.—Subchapter III of chap-
 4 ter 55 of title 5, United States Code, is amended by redes-
 5 ignating section 5527 as section 5528 and inserting after
 6 section 5526 the following:

7 **“§ 5527. Continuance of pay during periods of lapsed**
 8 **appropriations**

9 “(a) For purposes of this section—

10 “(1) the term ‘period of lapsed appropriations’,
 11 when used with respect to an employee, means any
 12 period during which appropriations are not available
 13 due to the absence of the timely enactment of any
 14 Act or joint resolution appropriating funds for the
 15 employing agency of the employee;

16 “(2) the term ‘employee’ means an individual
 17 employed (or holding office) in or under an agency;

18 “(3) the term ‘agency’ means—

19 “(A) an Executive agency;

20 “(B) the judicial branch;

21 “(C) the Library of Congress;

22 “(D) the Government Printing Office;

23 “(E) the legislative branch (excluding any
 24 agency otherwise referred to in this paragraph);

25 and

1 “(F) the government of the District of Co-
2 lumbia;

3 “(4) the term ‘pay’ means—

4 “(A) basic pay;

5 “(B) premium pay;

6 “(C) agency contributions for retirement
7 and life and health insurance; and

8 “(D) any other element of aggregate com-
9 pensation, including allowances, differentials,
10 bonuses, awards, and other similar cash pay-
11 ments; and

12 “(5) the term ‘furlough’ means the placing of
13 an employee in a temporary status without duties
14 and pay because of lack of work or funds or other
15 nondisciplinary reasons.

16 “(b) For any period of lapsed appropriations, there
17 are appropriated, out of any moneys in the Treasury not
18 otherwise appropriated, such sums as may be necessary
19 for the pay of any employee who—

20 “(1) performs service as an employee during
21 the period of lapsed appropriations; or

22 “(2) is prevented from serving during such pe-
23 riod by reason of having been furloughed due to a
24 lapse in appropriations.

1 “(c)(1) Notwithstanding section 1341 of title 31, any
 2 employee who is furloughed due to a lapse in appropria-
 3 tions shall be paid for the period during which such em-
 4 ployee is so furloughed.

5 “(2) For purposes of paragraph (1), the pay payable
 6 to an employee for any period during which such employee
 7 is furloughed shall be the pay that would have been pay-
 8 able to such employee for such period had such employee
 9 not been furloughed.

10 “(d) For purposes of carrying out section 5528 with
 11 respect to this section, any reference in section 5528(b)
 12 to an agency outside the executive branch shall be con-
 13 strued based on the definition of ‘agency’ under subsection
 14 (a).

15 “(e) Expenditures made for any fiscal year pursuant
 16 to this section shall be charged to the applicable appro-
 17 priation, fund, or authorization whenever the regular ap-
 18 propriation bill becomes law.

19 (b) TECHNICAL AND CONFORMING AMENDMENTS.—
 20 (1) The heading for subchapter III of chapter 55 of title
 21 5, United States Code, is amended by striking “AND AS-
 22 SIGNMENT” and inserting “ASSIGNMENT, AND
 23 CONTINUANCE”.

24 (2) The table of sections at the beginning of chapter
 25 55 of title 5, United States Code, is amended by striking

1 the item relating to section 5527 and inserting the follow-
 2 ing:

“5527. Continuance of pay during periods of lapsed appropriations.
 “5528. Regulations.”.

3 (3) The table of sections at the beginning of chapter
 4 55 of title 5, United States Code, is further amended by
 5 striking “AND ASSIGNMENT” in the item relating to
 6 subchapter III and inserting “ASSIGNMENT, AND
 7 CONTINUANCE”.

8 **SEC. 3. CONTINUANCE OF MILITARY PAY DURING PERIODS**
 9 **OF LAPSED APPROPRIATIONS.**

10 (a) CONTINUANCE OF PAY.—Chapter 19 of title 37,
 11 United States Code, is amended by adding at the end the
 12 following:

13 **“§ 1015. Continuance of pay during periods of lapsed**
 14 **appropriations**

15 “(a) For the purposes of this section—

16 “(1) the term ‘pay’, with respect to a member
 17 of a uniformed service, means the pay and allow-
 18 ances of such member; and

19 “(2) the term ‘period of lapsed appropriations’,
 20 when used with respect to any member, means any
 21 period during which appropriations are not available
 22 due to the absence of the timely enactment of any
 23 Act or joint resolution appropriating funds for the
 24 uniformed service of that member.

1 “(b) For any period of lapsed appropriations, there
 2 are appropriated, out of any moneys in the Treasury not
 3 otherwise appropriated, such sums as may be necessary
 4 for the pay of any member serving as a member of a uni-
 5 formed service during the period of lapsed appropriations.

6 “(c) Expenditures made for any fiscal year pursuant
 7 to this section shall be charged to the applicable appro-
 8 priation, fund, or authorization whenever the regular ap-
 9 propriation bill becomes law.

10 (b) TECHNICAL AND CONFORMING AMENDMENT.—
 11 The table of sections at the beginning of chapter 19 of
 12 title 37, United States Code, is amended by inserting after
 13 the item relating to section 1014 the following:

“1015. Continuance of pay during periods of lapsed appropriations.”.

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