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H. R. 1345

To provide compensation to members of the reserve components who suffer discrepancies between their military and nonmilitary compensation as a result of being ordered to serve on active duty for a period of more than 30 days, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MARCH 19, 2003

Mr. LANTOS (for himself, Mr. WEXLER, Mr. GRAVES, Ms. WATSON, Mr. BROWN of Ohio, and Mr. FALEOMAVAEGA) introduced the following bill; which was referred to the Committee on Ways and Means, and in addition to the Committees on Government Reform and Armed Services, 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

A BILL

To provide compensation to members of the reserve components who suffer discrepancies between their military and nonmilitary compensation as a result of being ordered to serve on active duty for a period of more than 30 days, 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 “Equity for Reservists
5 Pay Act of 2003”.

1 apply if the employee’s civilian employment had not been
2 interrupted) that occurs—

3 “(A) while the employee serves on active duty
4 for a period of more than 30 days;

5 “(B) while the employee is hospitalized for, or
6 convalescing from, an illness or injury incurred in,
7 or aggravated during, the performance of such active
8 duty; or

9 “(C) during the 14-day period beginning at the
10 end of such active duty or the end of the period re-
11 ferred to in subparagraph (B).

12 “(2) Paragraph (1) shall not apply with respect to
13 a pay period for which the employee receives civilian basic
14 pay (including by taking any annual, military, or other
15 paid leave) to which the employee is entitled by virtue of
16 the employee’s civilian employment with the Government.

17 “(c) Any amount payable under this section to an em-
18 ployee shall be paid—

19 “(1) by employing agency of the employee;

20 “(2) from the appropriations or fund that
21 would be used to pay the employee if the employee
22 were in a pay status; and

23 “(3) to the extent practicable, at the same time
24 and in the same manner as would civilian basic pay

1 if the employee's civilian employment had not been
2 interrupted.

3 “(d) In consultation with Secretary of Defense, the
4 Office of Personnel Management shall prescribe such reg-
5 ulations as may be necessary to carry out this section.

6 “(e)(1) In consultation with the Office, the head of
7 each agency referred to in section 2302(a)(2)(C)(ii) of this
8 title shall prescribe procedures to ensure that the rights
9 under this section apply to the employees of such agency.

10 “(2) The Administrator of the Federal Aviation Ad-
11 ministration shall, in consultation with the Office, pre-
12 scribe procedures to ensure that the rights under this sec-
13 tion apply to the employees of that agency.

14 “(f) In this section:

15 “(1) The terms ‘active duty for a period of
16 more than 30 days’, ‘member’, and ‘reserve compo-
17 nent’ have the meanings given such terms in section
18 101 of title 37.

19 “(2) The term ‘civilian basic pay’ includes any
20 amount payable under section 5304 of this title.

21 “(3) The term ‘employing agency’, as used with
22 respect to an employee entitled to any payments
23 under this section, means the agency or other entity
24 of the Government (including an agency referred to
25 in section 2302(a)(2)(C)(ii) of this title) with respect

1 to which the employee has reemployment rights
2 under chapter 43 of title 38.

3 “(4) The term ‘military compensation’ has the
4 meaning given the term ‘pay’ in section 101(21) of
5 title 37.”.

6 (b) CLERICAL AMENDMENT.—The table of sections
7 at the beginning of chapter 55 of title 5, United States
8 Code, is amended by inserting after the item relating to
9 section 5537 the following new item:

“5538. Nonreduction in pay while serving on active duty in a reserve compo-
nent.”.

10 (c) APPLICATION OF AMENDMENT.—Section 5538 of
11 title 5, United States Code, as added by subsection (a),
12 shall apply with respect to pay periods (as described in
13 subsection (b) of such section) beginning on or after the
14 date of the enactment of this Act.

15 **SEC. 3. ASSISTANCE FOR STATE AND LOCAL GOVERN-**
16 **MENTS THAT CONTINUE TO PAY EMPLOYEES**
17 **WHO SERVE ON ACTIVE DUTY IN A RESERVE**
18 **COMPONENT OF THE UNIFORMED SERVICES.**

19 (a) IN GENERAL.—Chapter 17 of title 37, United
20 States Code, is amended by adding at the end the fol-
21 lowing new section:

1 **“§910. Assistance for State and local governments**
2 **that continue to pay employees who**
3 **serve on active duty**

4 “(a) CONTINUATION OF CIVILIAN BASIC PAY.—It is
5 the purpose of this section to encourage States and local
6 governments to continue to pay a portion of the civilian
7 compensation of those employees who are also members
8 of a reserve component and are absent from a position
9 of employment with the State or local government under
10 a call or order to serve on active duty for a period of more
11 than 30 days so that the employees receive compensation
12 in an amount that, when taken together with their military
13 pay, is at least equal to their civilian compensation.

14 “(b) REIMBURSEMENT OFFERED.—(1) At the re-
15 quest of a State or local government that continues to pay
16 all or a portion of the civilian compensation of an employee
17 described in subsection (a), the Secretary concerned shall
18 reimburse the State or local government for 50 percent
19 of the civilian compensation paid by the State or local gov-
20 ernment for each pay period described in subsection (c),
21 but not to exceed 50 percent of the difference (if any) be-
22 tween—

23 “(A) the amount of civilian compensation that
24 would otherwise have been payable to the employee
25 for such pay period if the employee’s civilian employ-

1 ment with the State or local government had not
2 been interrupted by the service on active duty; and

3 “(B) the amount of military pay that is payable
4 to the employee for the service on active duty and
5 is allocable to such pay period.

6 “(2) If the pay periods described in subsection (c)
7 extend more than nine consecutive months after the first
8 day of the first month during which the employee began
9 to serve on active duty for a period of more than 30 days,
10 the reimbursement rate shall become 100 percent for the
11 subsequent payments. However, as is the case under para-
12 graph (1), reimbursement shall be provided only for the
13 difference (if any) between—

14 “(A) the amount of civilian compensation that
15 would otherwise have been payable to the employee
16 for such pay period if the employee’s civilian employ-
17 ment with the State or local government had not
18 been interrupted by the service on active duty; and

19 “(B) the amount of military pay that is payable
20 to the employee for the service on active duty and
21 is allocable to such pay period.

22 “(c) PAY PERIODS.—Reimbursement shall be pro-
23 vided under this section with respect to each pay period
24 (which would otherwise apply if the employee’s civilian em-
25 ployment had not been interrupted) that occurs—

1 “(1) while the employee serves on active duty
2 for a period of more than 30 days;

3 “(2) while the employee is hospitalized for, or
4 convalescing from, an illness or injury incurred in,
5 or aggravated during, the performance of such active
6 duty; or

7 “(3) during the 14-day period beginning at the
8 end of such active duty or the end of the period re-
9 ferred to in subparagraph (B).

10 “(d) EFFECT OF FAILURE TO RETURN TO EMPLOY-
11 MENT.—(1) If an employee described in subsection (a),
12 with respect to whom reimbursement is provided to a
13 State or local government under this section, fails to re-
14 port or apply for employment or reemployment with the
15 State or local government by the end of the period referred
16 to in subsection (c)(3), the employee shall refund to the
17 Secretary concerned the total amount of the reimburse-
18 ment provided with respect to the employee.

19 “(2) Subject to paragraph (3), an obligation to re-
20 fund moneys to the United States imposed under para-
21 graph (1) is for all purposes a debt owed to the United
22 States.

23 “(3) The Secretary concerned may waive, in whole
24 or in part, a refund required under paragraph (1) if the
25 Secretary concerned determines that recovery would be

1 against equity and good conscience or would be contrary
2 to the best interests of the United States.

3 “(4) A discharge in bankruptcy under title 11 that
4 is entered less than five years after the end of the period
5 referred to in subsection (c)(3) does not discharge the em-
6 ployee from a debt arising under paragraph (1). This
7 paragraph applies to any case commenced under title 11
8 after the date of the enactment of this section.

9 “(e) REGULATIONS.—The Secretaries concerned shall
10 prescribe regulations to carry out this section.

11 “(f) DEFINITIONS.—In this section:

12 “(1) The term ‘civilian compensation’ means
13 the wages or salary that an employee of a State or
14 local government normally receives from the employ-
15 ee’s employment by the State or local government.

16 “(2) The term ‘local government’ means an
17 agency or political subdivision of a State.

18 “(3) The term ‘military pay’ has the meaning
19 given the term ‘pay’ in section 101(21) of this title.

20 “(4) The term ‘State’ means each of the several
21 States of the United States, the District of Colum-
22 bia, the Commonwealth of Puerto Rico, Guam, the
23 Virgin Islands, and other territories or possessions
24 of the United States.”.

1 (b) CLERICAL AMENDMENT.—The table of sections
 2 at the beginning of chapter 17 of title 37, United States
 3 Code, is amended by inserting after the item relating to
 4 section 909 the following new item:

“910. Assistance for State and local governments that continue to pay employ-
 ees who serve on active duty.”.

5 (c) APPLICATION OF AMENDMENT.—Section 910 of
 6 title 37, United States Code, as added by subsection (a),
 7 shall apply with respect to pay periods (as described in
 8 subsection (b) of such section) beginning on or after the
 9 date of the enactment of this Act.

10 **SEC. 4. ACTIVE-DUTY RESERVE COMPONENT EMPLOYEE**
 11 **CREDIT ADDED TO GENERAL BUSINESS**
 12 **CREDIT.**

13 (a) ADDITION OF CREDIT.—Subpart D of part IV of
 14 subchapter A of chapter 1 of the Internal Revenue Code
 15 of 1986 (relating to business-related credits) is amended
 16 by adding at the end the following new section:

17 **“SEC. 45G. ACTIVE-DUTY RESERVE COMPONENT EMPLOYEE**
 18 **CREDIT.**

19 “(a) GENERAL RULE.—For purposes of section 38,
 20 in the case of an employer, the active-duty reserve compo-
 21 nent employee credit determined under this section for the
 22 taxable year is an amount equal to 50 percent of the com-
 23 pensation paid by the employer to an employee who is also
 24 a member of a reserve component during the taxable year

1 when the employee was absent from employment for a rea-
2 son described in subsection (b), but not to exceed 50 per-
3 cent of the difference (if any) between—

4 “(1) the amount of compensation that would
5 otherwise have been payable to the employee during
6 such absence if the employee’s employment with the
7 employer had not been interrupted by the employee’s
8 absence; and

9 “(2) the amount of military pay that is payable
10 to the employee during the absence.

11 “(b) COVERED PAY PERIODS.—Subsection (a) shall
12 apply with respect to an employee who is also a member
13 of a reserve component—

14 “(1) while the employee serves on active duty
15 for a period of more than 30 days;

16 “(2) while the employee is hospitalized for, or
17 convalescing from, an illness or injury incurred in,
18 or aggravated during, the performance of such active
19 duty; or

20 “(3) during the 14-day period beginning at the
21 end of such active duty or the end of the period re-
22 ferred to in subparagraph (B).

23 “(c) LIMITATION.—No credit shall be allowed under
24 subsection (a) with respect to an employee on any day on
25 which the employee was not scheduled to work (for a rea-

1 son other than such service on active duty) and ordinarily
2 would not have worked.

3 “(d) DEFINITIONS.—For purposes of this section—

4 “(1) The terms ‘active duty for a period of
5 more than 30 days’, ‘member’, and ‘reserve compo-
6 nent’ have the meanings given such terms in section
7 101 of title 37, United States Code.

8 “(2) The term ‘compensation’ means any remu-
9 neration for employment, whether in cash or in kind,
10 which is paid or incurred by a taxpayer and which
11 is deductible from the taxpayer’s gross income under
12 section 162(a)(1).”.

13 (b) CREDIT TO BE PART OF GENERAL BUSINESS
14 CREDIT.—Subsection (b) of section 38 of such Code (re-
15 lating to general business credit) is amended by striking
16 “plus” at the end of paragraph (14), by striking the period
17 at the end of paragraph (15) and inserting “, plus”, and
18 by adding at the end the following new paragraph:

19 “(16) the active-duty reserve component em-
20 ployee credit determined under section 45G(a).”.

21 (c) CONFORMING AMENDMENT.—The table of sec-
22 tions for subpart D of part IV of subchapter A of chapter
23 1 of the Internal Revenue Code of 1986 is amended by
24 inserting after the item relating to section 45F the fol-
25 lowing new item:

“Sec. 45G. Active-duty reserve component employee credit.”.

1 (d) EFFECTIVE DATE.—The amendments made by
2 this section shall apply to taxable years beginning after
3 December 31, 2001.

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