

108TH CONGRESS
2D SESSION

S. 2068

To enhance and improve benefits for members of the National Guard and Reserves who serve extended periods on active duty, and for other purposes.

IN THE SENATE OF THE UNITED STATES

FEBRUARY 12, 2004

Mrs. MURRAY (for herself, Mr. LEAHY, and Mr. REID) introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To enhance and improve benefits for members of the National Guard and Reserves who serve extended periods on active duty, 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 “Guard and Reserve
5 Enhanced Benefits Act of 2004”.

6 **TITLE I—FAMILY ASSISTANCE** 7 **BENEFITS**

8 **SEC. 101. MILITARY FAMILY LEAVE.**

9 (a) GENERAL REQUIREMENTS FOR LEAVE.—

1 (1) DEFINITIONS.—Section 101 of the Family
2 and Medical Leave Act of 1993 (29 U.S.C. 2611) is
3 amended by adding at the end the following:

4 “(14) ACTIVE DUTY.—The term ‘active duty’
5 means duty under a call or order to active duty
6 under a provision of law referred to in section
7 101(a)(13)(B) of title 10, United States Code.

8 “(15) QUALIFIED MEMBER.—The term ‘quali-
9 fied member’ means a member of the reserve compo-
10 nents on active duty for a period of more than 30
11 days.”.

12 (2) ENTITLEMENT TO LEAVE.—Section
13 102(a)(1) of such Act (29 U.S.C. 2612(a)) is
14 amended by adding at the end the following:

15 “(E) Because the spouse, son, daughter, or
16 parent of the employee is a qualified member.”.

17 (3) SCHEDULE.—Section 102(b)(1) of such Act
18 (29 U.S.C. 2612(b)(1)) is amended by inserting
19 after the second sentence the following: “Leave
20 under subsection (a)(1)(E) may be taken intermit-
21 tently or on a reduced leave schedule.”.

22 (4) SUBSTITUTION OF PAID LEAVE.—Section
23 102(d)(2)(A) of such Act (29 U.S.C. 2612(d)(2)(A))
24 is amended by striking “(A), (B), or (C)” and in-
25 serting “(A), (B), (C), or (E)”.

1 (5) NOTICE.—Section 102(e) of such Act (29
2 U.S.C. 2612(e)) is amended by adding at the end
3 the following:

4 “(3) NOTICE FOR MILITARY FAMILY LEAVE.—
5 In any case in which an employee seeks leave under
6 subsection (a)(1)(E), the employee shall provide
7 such notice as is practicable.”.

8 (6) CERTIFICATION.—Section 103 of such Act
9 (29 U.S.C. 2613) is amended by adding at the end
10 the following:

11 “(f) CERTIFICATION FOR MILITARY FAMILY
12 LEAVE.—An employer may require that a request for
13 leave under section 102(a)(1)(E) be supported by a certifi-
14 cation issued at such time and in such manner as the Sec-
15 retary may by regulation prescribe.”.

16 (b) MILITARY FAMILY LEAVE FOR CIVIL SERVICE
17 EMPLOYEES.—

18 (1) DEFINITIONS.—Section 6381 of title 5,
19 United States Code, is amended—

20 (A) in paragraph (5), by striking “and” at
21 the end;

22 (B) in paragraph (6), by striking the pe-
23 riod and inserting “; and”; and

24 (C) by adding at the end the following:

1 “(7) the term ‘active duty’ means duty under a
 2 call or order to active duty under a provision of law
 3 referred to in section 101(a)(13)(B) of title 10,
 4 United States Code; and

5 “(8) the term ‘qualified member’ means a mem-
 6 ber of the reserve components on active duty for a
 7 period of more than 30 days.”.

8 (2) ENTITLEMENT TO LEAVE.—Section 6382(a)
 9 of such title is amended by adding at the end the
 10 following:

11 “(E) Because the spouse, son, daughter, or par-
 12 ent of the employee is a qualified member.”.

13 (3) SCHEDULE.—Section 6382(b)(1) of such
 14 title is amended by inserting after the second sen-
 15 tence the following: “Leave under subsection
 16 (a)(1)(E) may be taken intermittently or on a re-
 17 duced leave schedule.”.

18 (4) SUBSTITUTION OF PAID LEAVE.—Section
 19 6382(d) of such title is amended by striking “(A),
 20 (B), (C), or (D)” and inserting “(A), (B), (C), (D),
 21 or (E)”.

22 (5) NOTICE.—Section 6382(e) of such title is
 23 amended by adding at the end the following:

1 “(3) In any case in which an employee seeks leave
 2 under subsection (a)(1)(E), the employee shall provide
 3 such notice as is practicable.”.

4 (6) CERTIFICATION.—Section 6383 of such title
 5 is amended by adding at the end the following:

6 “(f) An employing agency may require that a request
 7 for leave under section 6382(a)(1)(E) be supported by a
 8 certification issued at such time and in such manner as
 9 the Office of Personnel Management may by regulation
 10 prescribe.”.

11 **SEC. 102. CHILD CARE ASSISTANCE FOR MILITARY DE-**
 12 **PENDENTS.**

13 (a) AUTHORIZATION OF APPROPRIATIONS.—Section
 14 658B of the Child Care and Development Block Grant Act
 15 of 1990 (42 U.S.C. 9858) is amended—

16 (1) by striking “There is” and inserting “(a) IN
 17 GENERAL.—There is”;

18 (2) in subsection (a), as so designated, by in-
 19 serting “(except section 658T)” after “this sub-
 20 chapter”; and

21 (3) by adding at the end the following:

22 “(b) CHILD CARE FOR CERTAIN MILITARY DEPEND-
 23 ENTS.—There is authorized to be appropriated to carry
 24 out section 658T \$200,000,000 for each of fiscal years
 25 2005 through 2009.”.

1 (b) CHILD CARE ASSISTANCE.—The Child Care and
 2 Development Block Grant Act of 1990 (42 U.S.C. 9858
 3 et seq.) is amended by adding at the end the following:

4 **“SEC. 658T. CHILD CARE ASSISTANCE FOR MILITARY DE-**
 5 **PENDENTS.**

6 “(a) IN GENERAL.—The Secretary shall make grants
 7 to eligible spouses to assist the spouses in paying for the
 8 cost of child care services provided to dependents by eligi-
 9 ble child care providers. In making the grants, the Sec-
 10 retary shall give priority to eligible spouses of qualified
 11 members on active duty for a period of more than 6
 12 months.

13 “(b) DEFINITIONS.—In this section:

14 “(1) ACTIVE DUTY.—The term ‘active duty’
 15 means duty under a call or order to active duty
 16 under a provision of law referred to in section
 17 101(a)(13)(B) of title 10, United States Code.

18 “(2) DEPENDENT.—The term ‘dependent’
 19 means an individual who is—

20 “(A) a dependent, as defined in section
 21 401 of title 37, United States Code, except that
 22 such term does not include a person described
 23 in paragraph (1) or (3) of subsection (a) of
 24 such section; and

1 “(B) an individual described in subpara-
2 graphs (A) and (B) of section 658P(4).

3 “(3) ELIGIBLE SPOUSE.—The term ‘eligible
4 spouse’ means a person who—

5 “(A) is a parent of one or more dependents
6 of a qualified member; and

7 “(B) has the primary responsibility for the
8 care of one or more such dependents.

9 “(4) QUALIFIED MEMBER.—The term ‘qualified
10 member’ means a member of the reserve components
11 on active duty for a period of more than 30 days.

12 “(c) APPLICATIONS.—To be eligible to receive a grant
13 under this section, a spouse shall submit an application
14 to the Secretary, at such time, in such manner, and con-
15 taining such information as the Secretary may require, in-
16 cluding a description of the eligible child care provider who
17 provides the child care services assisted through the grant.

18 “(d) RULE.—The provisions of this subchapter, other
19 than section 658P and provisions referenced in section
20 658P, that apply to assistance provided under this sub-
21 chapter shall not apply to assistance provided under this
22 section.”.

23 (c) CONFORMING AMENDMENTS.—Section 658O of
24 the Child Care and Development Block Grant Act of 1990
25 (42 U.S.C. 9858m) is amended—

1 (1) in subsection (a)—

2 (A) in paragraph (1), by striking “appro-
3 priated under this subchapter” and inserting
4 “appropriated under section 658B(a)”; and

5 (B) in paragraph (2), by striking “appro-
6 priated under section 658B” and inserting “ap-
7 propriated under section 658(a)”; and

8 (2) in subsection (b)(1), by striking “appro-
9 priated under section 658B” and inserting “appro-
10 priated under section 658(a)”.

11 **TITLE II—EDUCATION BENEFITS**

12 **Subtitle A—Montgomery GI Bill**

13 **Benefits**

14 **SEC. 201. BASIC EDUCATIONAL ASSISTANCE FOR MEMBERS**

15 **OF SELECTED RESERVE SERVING EXTENDED**

16 **OR RECURRING PERIODS ON ACTIVE DUTY.**

17 (a) ENTITLEMENT.—(1) Subsection (a)(1) of section
18 3011 of title 38, United States Code, is amended—

19 (A) in subparagraph (B), by striking “or” at
20 the end;

21 (B) in subparagraph (C), by adding “or” at the
22 end; and

23 (C) by adding at the end the following new sub-
24 paragraph:

1 “(D) after September 11, 2001, while a
2 member of the Selected Reserve—

3 “(i) serves at least 12 months of con-
4 tinuous active duty in the Armed Forces;
5 or

6 “(ii) during any 60-month period,
7 serves an aggregate of 24 months of con-
8 tinuous active duty in the Armed Forces;”.

9 (2) Subsection (d)(3) of such section is amended by
10 striking “The period of service” and inserting “Except in
11 the case of an individual described in subsection (a)(1)(D),
12 the period of service”.

13 (b) EXCLUSION FROM CONTRIBUTIONS FOR IN-
14 CREASED ASSISTANCE.—Subsection (e)(1) of such section
15 is amended by inserting “(other than an individual de-
16 scribed in subsection (a)(1)(D))” after “Any individual”.

17 (c) AMOUNT OF ASSISTANCE.—Section 3015(a) of
18 such title is amended by inserting after “three years” the
19 following: “or an individual whose service on active duty
20 on which such entitlement is based is described in clause
21 (i) or (ii) of section 3011(a)(1)(D) of this title”.

1 **SEC. 202. INCREASE IN AMOUNT OF EDUCATIONAL ASSIST-**
 2 **ANCE FOR MEMBERS OF SELECTED RE-**
 3 **SERVE.**

4 (a) INCREASE IN AMOUNTS.—Section 16131(b)(1) of
 5 title 10, United States Code, is amended—

6 (1) in subparagraph (A), by striking “\$251”
 7 and inserting “\$400”;

8 (2) in subparagraph (B), by striking “\$188”
 9 and inserting “\$300”; and

10 (3) in subparagraph (C), by striking “\$125”
 11 and inserting “\$200”.

12 (b) EFFECTIVE DATE.—The amendments made by
 13 subsection (a) shall take effect on the date of the enact-
 14 ment of this Act, and shall apply with respect to monthly
 15 rates of educational assistance for months beginning on
 16 or after that date.

17 **SEC. 203. MODIFICATION OF TIME LIMITATION FOR USE OF**
 18 **ENTITLEMENT TO EDUCATIONAL ASSIST-**
 19 **ANCE OF MEMBERS OF SELECTED RESERVE.**

20 Section 16133(a)(2) of title 10, United States Code,
 21 is amended—

22 (1) by inserting “that is five years after the
 23 date” after “on the date”; and

24 (2) by striking “first” and inserting “later”.

**Subtitle B—Other Education
Benefits**

SEC. 211. STUDENT LOAN DEFERMENTS.

(a) FFEL AND DIRECT SUBSIDIZED LOANS.—Section 428(b)(1)(M) of the Higher Education Act of 1965 (20 U.S.C. 1078(b)(1)(M)) is amended—

(1) in clause (ii), by striking “or” after the semicolon;

(2) in clause (iii), by inserting “or” after the semicolon; and

(3) by inserting after clause (iii) the following:

“(iv) during which the borrower is a member of the reserve components of the Armed Forces on active duty for a period of more than 30 days under a call or order to active duty under a provision of law referred to in section 101(a)(13)(B) of title 10, United States Code, and for 3 months following discharge or release from such active duty.”.

(b) CONSOLIDATION LOANS.—Section 428C(b)(4)(C)(ii) of the Higher Education Act of 1965 (20 U.S.C. 1078–3(b)(4)(C)(ii)) is amended—

(1) in subclause (II), by striking “or” after the semicolon;

1 (2) in subclause (III), by striking “or (II)” and
2 inserting “, (II) or (III)”;

3 (3) by redesignating subclause (III) (as so
4 amended) as subclause (IV); and

5 (4) by inserting after subclause (II) the fol-
6 lowing:

7 “(III) by the Secretary, in the case of a
8 consolidation loan of a student who is on an ac-
9 tive duty deferment under section
10 428(b)(1)(M)(iv); or”.

11 (c) FFEL AND DIRECT UNSUBSIDIZED LOANS.—
12 Section 428H(e)(2) of the Higher Education Act of 1965
13 (20 U.S.C. 1078–8(e)(2)) is amended by adding at the
14 end the following:

15 “(C) Notwithstanding subparagraph (A), inter-
16 est on loans made under this section for which pay-
17 ments of principal are deferred because the student
18 is on an active duty deferment under section
19 428(b)(1)(M)(iv) shall be paid by the Secretary.”.

20 (d) PERKINS LOANS.—Section 464(c)(2)(A) of the
21 Higher Education Act of 1965 (20 U.S.C.
22 1087dd(c)(2)(A)) is amended—

23 (1) in clause (iii), by striking “or” after the
24 semicolon;

1 (2) in clause (iv), by inserting “or” after the
2 semicolon; and

3 (3) by inserting after clause (iv) the following:

4 “(v) during which the borrower is a mem-
5 ber of the reserve components of the Armed
6 Forces on active duty for a period of more than
7 30 days under a call or order to active duty
8 under a provision of law referred to in section
9 101(a)(13)(B) of title 10, United States Code,
10 and for 3 months following discharge or release
11 from such active duty.”.

12 **SEC. 212. PRESERVATION OF EDUCATIONAL STATUS AND**
13 **TUITION.**

14 (a) IN GENERAL.—Title VII of the Servicemembers
15 Civil Relief Act (50 U.S.C. App. 501 et seq.), as amended
16 by section 1 of Public Law 108–189 (117 Stat. 2835),
17 is further amended by adding at the end the following new
18 section:

19 **“SEC. 707. PRESERVATION OF EDUCATIONAL STATUS AND**
20 **TUITION.**

21 “(a) LEAVE OF ABSENCE.—A servicemember who is
22 a member of the reserve components on active duty for
23 a period of more than 30 days under a call or order to
24 active duty under a provision of law referred to in section
25 101(a)(13)(B) of title 10, United States Code, and who

1 is enrolled as a student at an institution of higher edu-
 2 cation at the time of entry into the service on active duty,
 3 shall be granted a leave of absence from the institution
 4 during the period of the service on active duty and for
 5 one year after the conclusion of the service on active duty.

6 “(b) EDUCATIONAL STATUS.—

7 “(1) IN GENERAL.—A servicemember on a leave
 8 of absence from an institution of higher education
 9 under subsection (a) shall be entitled, upon comple-
 10 tion of the leave of absence, to be restored to the
 11 educational status the servicemember had attained
 12 before entering into the service on active duty as de-
 13 scribed in that subsection without loss of academic
 14 credits earned, scholarships or grants awarded, or,
 15 subject to paragraph (2), tuition and other fees paid
 16 before the entry of the servicemember into the serv-
 17 ice on active duty.

18 “(2) TUITION.—

19 “(A) REFUND.—An institution of higher
 20 education shall refund tuition or fees paid or
 21 credit the tuition and fees to the next period of
 22 enrollment after a servicemember returns from
 23 the leave of absence, at the option of the
 24 servicemember. Notwithstanding the 180-day
 25 limitation referred to in subsection (a)(2)(B) of

1 section 484B of the Higher Education Act of
2 1965 (20 U.S.C. 1091b), a servicemember on a
3 leave of absence under this section shall not be
4 treated as having withdrawn for purposes of
5 such section 484B unless the servicemember
6 fails to return upon the completion of the leave
7 of absence.

8 “(B) AMOUNT OF REFUND.—If a
9 servicemember requests a refund for a period of
10 enrollment, the percentage of the tuition and
11 fees that shall be refunded shall be equal to 100
12 percent minus—

13 “(i) the percentage of the period of
14 enrollment (for which the tuition and fees
15 were paid) that was completed (as deter-
16 mined in accordance with subsection (d) of
17 such section 484B) as of the day the
18 servicemember withdrew, provided that
19 such date occurs on or before the comple-
20 tion of 60 percent of the period of enroll-
21 ment; or

22 “(ii) 100 percent, if the day the per-
23 son withdrew occurs after the
24 servicemember has completed 60 percent of
25 the period of enrollment.”.

1 (b) CLERICAL AMENDMENT.—The table of contents
 2 of that Act is amended by adding at the end the following
 3 new item:

“Sec. 707. Preservation of educational status and tuition.”.

4 **TITLE III—COMPENSATION AND**
 5 **RETIREMENT BENEFITS**

6 **SEC. 301. NONREDUCTION IN PAY FOR FEDERAL EMPLOY-**
 7 **EES WHO ARE RESERVES SERVING ON AC-**
 8 **TIVE DUTY IN THE UNIFORMED SERVICES**
 9 **FOR EXTENDED PERIODS.**

10 (a) IN GENERAL.—Subchapter IV of chapter 55 of
 11 title 5, United States Code, is amended by adding at the
 12 end the following:

13 **“§ 5538. Nonreduction in pay of Reserves on active**
 14 **duty in the uniformed services for ex-**
 15 **tended periods**

16 “(a) An employee who is absent from a position of
 17 employment with the Federal Government in order to per-
 18 form active duty in the uniformed services for a period
 19 of more than 30 days pursuant to a call or order to active
 20 duty under a provision of law referred to in section
 21 101(a)(13)(B) of title 10 shall be entitled, while serving
 22 on active duty, to receive, for each pay period described
 23 in subsection (b), an amount equal to the amount by
 24 which—

1 “(1) the amount of basic pay which would oth-
2 erwise have been payable to such employee for such
3 pay period if such employee’s civilian employment
4 with the Government had not been interrupted by
5 that service, exceeds (if at all)

6 “(2) the amount of pay and allowances which
7 (as determined under subsection (d))—

8 “(A) is payable to such employee for that
9 service; and

10 “(B) is allocable to such pay period.

11 “(b)(1) Amounts under this section shall be payable
12 with respect to each pay period (which would otherwise
13 apply if the employee’s civilian employment had not been
14 interrupted)—

15 “(A) during which such employee is enti-
16 tled to reemployment rights under chapter 43
17 of title 38 with respect to the position from
18 which such employee is absent (as referred to in
19 subsection (a)); and

20 “(B) for which such employee does not
21 otherwise receive basic pay (including by taking
22 any annual, military, or other paid leave) to
23 which such employee is entitled by virtue of
24 such employee’s civilian employment with the
25 Government.

1 “(2) For purposes of this section, the period during
 2 which an employee is entitled to reemployment rights
 3 under chapter 43 of title 38—

4 “(A) shall be determined disregarding the provi-
 5 sions of section 4312(d) of title 38; and

6 “(B) shall include any period of time specified
 7 in section 4312(e) of title 38 within which an em-
 8 ployee may report or apply for employment or reem-
 9 ployment following completion of the service on ac-
 10 tive duty to which called or ordered as described in
 11 subsection (a).

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

14 “(1) by such employee’s employing agency;

15 “(2) from the appropriation or fund which
 16 would be used to pay the employee if such employee
 17 were in a pay status; and

18 “(3) to the extent practicable, at the same time
 19 and in the same manner as would basic pay if such
 20 employee’s civilian employment had not been inter-
 21 rupted.

22 “(d) The Office of Personnel Management shall, in
 23 consultation with Secretary of Defense, prescribe any reg-
 24 ulations necessary to carry out the preceding provisions
 25 of this section.

1 “(e)(1) The head of each agency referred to in section
 2 2302(a)(2)(C)(ii) shall, in consultation with the Office,
 3 prescribe procedures to ensure that the rights under this
 4 section apply to the employees of such agency.

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

9 “(f) In this section—

10 “(1) the terms ‘employee’, ‘Federal Govern-
 11 ment’, and ‘uniformed services’ have the same re-
 12 spective meanings as given them in section 4303 of
 13 title 38;

14 “(2) the term ‘employing agency’, as used with
 15 respect to an employee entitled to any payments
 16 under this section, means the agency or other entity
 17 of the Government (including an agency referred to
 18 in section 2302(a)(2)(C)(ii)) with respect to which
 19 such employee has reemployment rights under chap-
 20 ter 43 of title 38; and

21 “(3) the term ‘basic pay’ includes any amount
 22 payable under section 5304.”.

23 (b) TECHNICAL AND CONFORMING AMENDMENT.—
 24 The table of sections for chapter 55 of title 5, United

1 States Code, is amended by inserting after the item relat-
 2 ing to section 5537 the following:

“5538. Nonreduction in pay of Reserves on active duty in the uniformed services
 for extended periods.”

3 (c) EFFECTIVE DATE.—The amendments made by
 4 this section shall apply with respect to pay periods (as de-
 5 scribed in section 5538(b) of title 5, United States Code,
 6 as added by this section) beginning on or after the date
 7 of enactment of this Act.

8 **SEC. 302. CREDIT FOR INCOME DIFFERENTIAL FOR EM-**
 9 **PLOYMENT OF ACTIVATED MILITARY RE-**
 10 **SERVIST AND REPLACEMENT PERSONNEL.**

11 (a) IN GENERAL.—Subpart B of part IV of sub-
 12 chapter A of chapter 1 of the Internal Revenue Code of
 13 1986 (relating to foreign tax credit, etc.) is amended by
 14 adding at the end the following new section:

15 **“SEC. 30B. EMPLOYER WAGE CREDIT FOR ACTIVATED MILI-**
 16 **TARY RESERVISTS.**

17 “(a) GENERAL RULE.—There shall be allowed as a
 18 credit against the tax imposed by this chapter for the tax-
 19 able year an amount equal to the sum of—

20 “(1) in the case of a small business employer,
 21 the employment credit with respect to all qualified
 22 employees and qualified replacement employees of
 23 the taxpayer, plus

1 “(2) the self-employment credit of a qualified
2 self-employed taxpayer.

3 “(b) EMPLOYMENT CREDIT.—For purposes of this
4 section—

5 “(1) QUALIFIED EMPLOYEES.—

6 “(A) IN GENERAL.—The employment cred-
7 it with respect to a qualified employee of the
8 taxpayer for any taxable year is equal to the
9 lesser of—

10 “(i) the excess, if any, of—

11 “(I) the qualified employee’s av-
12 erage daily qualified compensation for
13 the taxable year, over

14 “(II) the average daily military
15 pay and allowances received by the
16 qualified employee during the taxable
17 year,

18 while participating in qualified reserve
19 component duty to the exclusion of the
20 qualified employee’s normal employment
21 duties for the number of days the qualified
22 employee participates in qualified reserve
23 component duty during the taxable year,
24 including time spent in a travel status, or

25 “(ii) \$6,000.

1 The employment credit, with respect to all
2 qualified employees, is equal to the sum of the
3 employment credits for each qualified employee
4 under this subsection.

5 “(B) AVERAGE DAILY QUALIFIED COM-
6 PENSATION AND AVERAGE DAILY MILITARY PAY
7 AND ALLOWANCES.—As used with respect to a
8 qualified employee—

9 “(i) the term ‘average daily qualified
10 compensation’ means the qualified com-
11 pensation of the qualified employee for the
12 taxable year divided by the difference be-
13 tween—

14 “(I) 365, and

15 “(II) the number of days the
16 qualified employee participates in
17 qualified reserve component duty dur-
18 ing the taxable year, including time
19 spent in a travel status, and

20 “(ii) the term ‘average daily military
21 pay and allowances’ means—

22 “(I) the amount paid to the
23 qualified employee during the taxable
24 year as military pay and allowances
25 on account of the qualified employee’s

1 participation in qualified reserve com-
2 ponent duty, divided by

3 “(II) the total number of days
4 the qualified employee participates in
5 qualified reserve component duty, in-
6 cluding time spent in travel status.

7 “(C) QUALIFIED COMPENSATION.—When
8 used with respect to the compensation paid or
9 that would have been paid to a qualified em-
10 ployee for any period during which the qualified
11 employee participates in qualified reserve com-
12 ponent duty, the term ‘qualified compensation’
13 means—

14 “(i) compensation which is normally
15 contingent on the qualified employee’s
16 presence for work and which would be de-
17 ductible from the taxpayer’s gross income
18 under section 162(a)(1) if the qualified
19 employee were present and receiving such
20 compensation,

21 “(ii) compensation which is not char-
22 acterized by the taxpayer as vacation or
23 holiday pay, or as sick leave or pay, or as
24 any other form of pay for a nonspecific
25 leave of absence, and with respect to which

the number of days the qualified employee participates in qualified reserve component duty does not result in any reduction in the amount of vacation time, sick leave, or other nonspecific leave previously credited to or earned by the qualified employee, and

“(iii) group health plan costs (if any) with respect to the qualified employee.

“(D) QUALIFIED EMPLOYEE.—The term ‘qualified employee’ means a person who—

“(i) has been an employee of the taxpayer for the 91-day period immediately preceding the period during which the employee participates in qualified reserve component duty, and

“(ii) is a member of the Ready Reserve of a reserve component of an Armed Force of the United States as defined in sections 10142 and 10101 of title 10, United States Code.

“(2) QUALIFIED REPLACEMENT EMPLOYEES.—

“(A) IN GENERAL.—The employment credit with respect to a qualified replacement employee of the taxpayer for any taxable year is equal to the lesser of—

1 “(i) the individual’s qualified com-
2 pensation attributable to service rendered
3 as a qualified replacement employee, or

4 “(ii) \$6,000.

5 The employment credit, with respect to all
6 qualified replacement employees, is equal to the
7 sum of the employment credits for each quali-
8 fied replacement employee under this sub-
9 section.

10 “(B) QUALIFIED COMPENSATION.—When
11 used with respect to the compensation paid to
12 a qualified replacement employee, the term
13 ‘qualified compensation’ means—

14 “(i) compensation which is normally
15 contingent on the qualified replacement
16 employee’s presence for work and which is
17 deductible from the taxpayer’s gross in-
18 come under section 162(a)(1),

19 “(ii) compensation which is not char-
20 acterized by the taxpayer as vacation or
21 holiday pay, or as sick leave or pay, or as
22 any other form of pay for a nonspecific
23 leave of absence, and

1 “(iii) group health plan costs (if any)
 2 with respect to the qualified replacement
 3 employee.

4 “(C) QUALIFIED REPLACEMENT EM-
 5 PLOYEE.—The term ‘qualified replacement em-
 6 ployee’ means an individual who is hired to re-
 7 place a qualified employee or a qualified self-
 8 employed taxpayer, but only with respect to the
 9 period during which such employee or taxpayer
 10 participates in qualified reserve component
 11 duty, including time spent in travel status.

12 “(c) SELF-EMPLOYMENT CREDIT.—For purposes of
 13 this section—

14 “(1) IN GENERAL.—The self-employment credit
 15 of a qualified self-employed taxpayer for any taxable
 16 year is equal to the lesser of—

17 “(A) the excess, if any, of—

18 “(i) the self-employed taxpayer’s aver-
 19 age daily self-employment income for the
 20 taxable year over

21 “(ii) the average daily military pay
 22 and allowances received by the taxpayer
 23 during the taxable year, while participating
 24 in qualified reserve component duty to the
 25 exclusion of the taxpayer’s normal self-em-

1 ployment duties for the number of days the
 2 taxpayer participates in qualified reserve
 3 component duty during the taxable year,
 4 including time spent in a travel status, or
 5 “(B) \$6,000.

6 “(2) AVERAGE DAILY SELF-EMPLOYMENT IN-
 7 COME AND AVERAGE DAILY MILITARY PAY AND AL-
 8 LOWANCES.—As used with respect to a self-em-
 9 ployed taxpayer—

10 “(A) the term ‘average daily self-employ-
 11 ment income’ means the self-employment in-
 12 come (as defined in section 1402(b)) of the tax-
 13 payer for the taxable year plus the amount paid
 14 for insurance which constitutes medical care for
 15 the taxpayer for such year (within the meaning
 16 of section 162(l)) divided by the difference be-
 17 tween—

18 “(i) 365, and

19 “(ii) the number of days the taxpayer
 20 participates in qualified reserve component
 21 duty during the taxable year, including
 22 time spent in a travel status, and

23 “(B) the term ‘average daily military pay
 24 and allowances’ means—

1 “(i) the amount paid to the taxpayer
 2 during the taxable year as military pay
 3 and allowances on account of the tax-
 4 payer’s participation in qualified reserve
 5 component duty, divided by

6 “(ii) the total number of days the tax-
 7 payer participates in qualified reserve com-
 8 ponent duty, including time spent in travel
 9 status.

10 “(3) QUALIFIED SELF-EMPLOYED TAXPAYER.—

11 The term ‘qualified self-employed taxpayer’ means a
 12 taxpayer who—

13 “(A) has net earnings from self-employ-
 14 ment (as defined in section 1402(a)) for the
 15 taxable year, and

16 “(B) is a member of the Ready Reserve of
 17 a reserve component of an Armed Force of the
 18 United States.

19 “(d) COORDINATION WITH OTHER CREDITS.—The
 20 amount of credit otherwise allowable under sections 51(a)
 21 and 1396(a) with respect to any employee shall be reduced
 22 by the credit allowed by this section with respect to such
 23 employee.

24 “(e) LIMITATIONS.—

1 “(1) APPLICATION WITH OTHER CREDITS.—

2 The credit allowed under subsection (a) for any tax-
3 able year shall not exceed the excess (if any) of—

4 “(A) the regular tax for the taxable year
5 reduced by the sum of the credits allowable
6 under subpart A and sections 27, 29, and 30,
7 over

8 “(B) the tentative minimum tax for the
9 taxable year.

10 “(2) DISALLOWANCE FOR FAILURE TO COMPLY
11 WITH EMPLOYMENT OR REEMPLOYMENT RIGHTS OF
12 MEMBERS OF THE RESERVE COMPONENTS OF THE
13 ARMED FORCES OF THE UNITED STATES.—No credit
14 shall be allowed under subsection (a) to a taxpayer
15 for—

16 “(A) any taxable year, beginning after the
17 date of the enactment of this section, in which
18 the taxpayer is under a final order, judgment,
19 or other process issued or required by a district
20 court of the United States under section 4323
21 of title 38 of the United States Code with re-
22 spect to a violation of chapter 43 of such title,
23 and

24 “(B) the 2 succeeding taxable years.

1 “(3) DISALLOWANCE WITH RESPECT TO PER-
 2 SONS ORDERED TO ACTIVE DUTY FOR TRAINING.—
 3 No credit shall be allowed under subsection (a) to a
 4 taxpayer with respect to any period by taking into
 5 account any person who is called or ordered to active
 6 duty for any of the following types of duty:

7 “(A) Active duty for training under any
 8 provision of title 10, United States Code.

9 “(B) Training at encampments, maneu-
 10 vers, outdoor target practice, or other exercises
 11 under chapter 5 of title 32, United States Code.

12 “(C) Full-time National Guard duty, as
 13 defined in section 101(d)(5) of title 10, United
 14 States Code.

15 “(f) GENERAL DEFINITIONS AND SPECIAL RULES.—
 16 For purposes of this section—

17 “(1) SMALL BUSINESS EMPLOYER.—

18 “(A) IN GENERAL.—The term ‘small busi-
 19 ness employer’ means, with respect to any tax-
 20 able year, any employer who employed an aver-
 21 age of 50 or fewer employees on business days
 22 during such taxable year.

23 “(B) CONTROLLED GROUPS.—For pur-
 24 poses of subparagraph (A), all persons treated
 25 as a single employer under subsection (b), (c),

1 (m), or (o) of section 414 shall be treated as a
2 single employer.

3 “(2) MILITARY PAY AND ALLOWANCES.—The
4 term ‘military pay’ means pay as that term is de-
5 fined in section 101(21) of title 37, United States
6 Code, and the term ‘allowances’ means the allow-
7 ances payable to a member of the Armed Forces of
8 the United States under chapter 7 of that title.

9 “(3) QUALIFIED RESERVE COMPONENT
10 DUTY.—The term ‘qualified reserve component duty’
11 means active duty performed for a period not less
12 than 180 days under a call or order to active duty
13 under a provision of law referred to in section
14 101(a)(13)(B) of title 10, United States Code.

15 “(4) CARRYBACK AND CARRYFORWARD AL-
16 LOWED.—

17 “(A) IN GENERAL.—If the credit allowable
18 under subsection (a) for a taxable year exceeds
19 the amount of the limitation under subsection
20 (e)(1) for such taxable year (in this paragraph
21 referred to as the ‘unused credit year’), such
22 excess shall be a credit carryback to each of the
23 3 taxable years preceding the unused credit
24 year and a credit carryforward to each of the

1 20 taxable years following the unused credit
2 year.

3 “(B) RULES.—Rules similar to the rules of
4 section 39 shall apply with respect to the credit
5 carryback and credit carryforward under sub-
6 paragraph (A).

7 “(5) CERTAIN RULES TO APPLY.—Rules similar
8 to the rules of subsections (c), (d), and (e) of section
9 52 shall apply.”.

10 (b) NO DEDUCTION FOR COMPENSATION TAKEN
11 INTO ACCOUNT FOR CREDIT.—Section 280C(a) of the In-
12 ternal Revenue Code of 1986 (relating to rule for employ-
13 ment credits) is amended—

14 (1) by inserting “or compensation” after “sala-
15 ries”, and

16 (2) by inserting “30B,” before “45A(a)”.

17 (c) CONFORMING AMENDMENT.—Section 55(c)(2) of
18 the Internal Revenue Code of 1986 is amended by insert-
19 ing “30B(e)(1),” after “30(b)(3),”.

20 (d) CLERICAL AMENDMENT.—The table of sections
21 for subpart B of part IV of subchapter A of chapter 1
22 of the Internal Revenue Code of 1986 is amended by add-
23 ing at the end 30A the following new item:

“Sec. 30B. Employer wage credit for activated military reserv-
ists.”.

1 (e) EFFECTIVE DATE.—The amendments made by
 2 this section shall apply to amounts paid after the date of
 3 the enactment of this Act, in taxable years ending after
 4 such date.

5 **SEC. 303. REDUCED MINIMUM AGE FOR ELIGIBILITY FOR**
 6 **NON-REGULAR SERVICE RETIRED PAY.**

7 Section 12731(a)(1) of title 10, United States Code,
 8 is amended by striking “60 years of age” and inserting
 9 “55 years of age”.

10 **TITLE IV—HEALTH CARE**
 11 **BENEFITS**

12 **SEC. 401. EXPANDED ELIGIBILITY OF READY RESERVE**
 13 **MEMBERS UNDER TRICARE PROGRAM.**

14 (a) UNCONDITIONAL ELIGIBILITY.—Subsection (a)
 15 of section 1076b of title 10, United States Code, is amend-
 16 ed by striking “and receive benefits” and all that follows
 17 through “an employer-sponsored health benefits plan”.

18 (b) PERMANENT AUTHORITY.—Subsection (l) of such
 19 section is repealed.

20 (c) CONFORMING AMENDMENTS.—Such section is
 21 further amended—

22 (1) by striking subsections (i) and (j); and

23 (2) by redesignating subsection (k) as sub-
 24 section (i).

1 **SEC. 402. CONTINUATION OF NON-TRICARE HEALTH BENE-**
 2 **FITS PLAN COVERAGE FOR CERTAIN RE-**
 3 **SERVES CALLED OR ORDERED TO ACTIVE**
 4 **DUTY AND THEIR DEPENDENTS.**

5 (a) REQUIRED CONTINUATION.—(1) Chapter 55 of
 6 title 10, United States Code, is amended by inserting after
 7 section 1078a the following new section:

8 **“§ 1078b. Continuation of non-TRICARE health bene-**
 9 **fits plan coverage for dependents of cer-**
 10 **tain Reserves called or ordered to active**
 11 **duty**

12 “(a) PAYMENT OF PREMIUMS.—The Secretary con-
 13 cerned shall pay the applicable premium to continue in
 14 force any qualified health benefits plan coverage for the
 15 members of the family of an eligible reserve component
 16 member for the benefits coverage continuation period if
 17 timely elected by the member in accordance with regula-
 18 tions prescribed under subsection (g).

19 “(b) ELIGIBLE MEMBER; FAMILY MEMBERS.—(1) A
 20 member of a reserve component is eligible for payment of
 21 the applicable premium for continuation of qualified
 22 health benefits plan coverage under subsection (a) while
 23 serving on active duty for a period of more than 30 days
 24 pursuant to a call or order issued under a provision of
 25 law referred to in section 101(a)(13)(B) of this title dur-

1 ing a war or a national emergency declared by the Presi-
 2 dent or Congress.

3 “(2) For the purposes of this section, the members
 4 of the family of an eligible reserve component member in-
 5 clude only the member’s dependents described in subpara-
 6 graphs (A), (D), and (I) of section 1072(2) of this title.

7 “(c) QUALIFIED HEALTH BENEFITS PLAN COV-
 8 ERAGE.—For the purposes of this section, health benefits
 9 plan coverage for the members of the family of a reserve
 10 component member called or ordered to active duty is
 11 qualified health benefits plan coverage if—

12 “(1) the coverage was in force on the date on
 13 which the Secretary notified the reserve component
 14 member that issuance of the call or order was pend-
 15 ing or, if no such notification was provided, the date
 16 of the call or order;

17 “(2) on such date, the coverage applied to the
 18 reserve component member and members of the fam-
 19 ily of the reserve component member; and

20 “(3) the coverage has not lapsed.

21 “(d) APPLICABLE PREMIUM.—The applicable pre-
 22 mium payable under this section for continuation of health
 23 benefits plan coverage for the family members of a reserve
 24 component member is the amount of the premium payable
 25 by the member for the coverage of the family members.

1 “(e) BENEFITS COVERAGE CONTINUATION PE-
 2 RIOD.—The benefits coverage continuation period under
 3 this section for qualified health benefits plan coverage for
 4 the family members of an eligible reserve component mem-
 5 ber called or ordered to active duty is the period that—

6 “(1) begins on the date of the call or order; and

7 “(2) ends at the end of the day on which the
 8 active duty terminates.

9 “(f) EXTENSION OF PERIOD OF COBRA COV-
 10 ERAGE.—Notwithstanding any other provision of law—

11 “(1) any period of coverage under a COBRA
 12 continuation provision (as defined in section
 13 9832(d)(1) of the Internal Revenue Code of 1986)
 14 for an eligible reserve component member under this
 15 section shall be deemed to be equal to the benefits
 16 coverage continuation period for such member under
 17 this section; and

18 “(2) with respect to the election of any period
 19 of coverage under a COBRA continuation provision
 20 (as so defined), rules similar to the rules under sec-
 21 tion 4980B(f)(5)(C) of such Code shall apply.

22 “(g) REGULATIONS.—The Secretary of Defense shall
 23 prescribe regulations for carrying out this section. The
 24 regulations shall include such requirements for making an

1 election of payment of applicable premiums as the Sec-
 2 retary considers appropriate.”.

3 (2) The table of sections at the beginning of such
 4 chapter is amended by inserting after the item relating
 5 to section 1078a the following new item:

“1078b. Continuation of non-TRICARE health benefits plan coverage for de-
 pendents of certain Reserves called or ordered to active duty.”.

6 (b) APPLICABILITY.—Section 1078b of title 10,
 7 United States Code (as added by subsection (a)), shall
 8 apply with respect to calls or orders of members of reserve
 9 components of the Armed Forces to active duty as de-
 10 scribed in subsection (b) of such section, that are issued
 11 by the Secretary of a military department before, on, or
 12 after the date of the enactment of this Act, but only with
 13 respect to qualified health benefits plan coverage (as de-
 14 scribed in subsection (c) of such section) that is in effect
 15 on or after the date of the enactment of this Act.

