

## Calendar No. 534

108TH CONGRESS  
2D SESSION**S. 2448**

To coordinate rights under the Uniformed Services Employment and  
Reemployment Rights Act of 1994 with other Federal laws.

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IN THE SENATE OF THE UNITED STATES

MAY 19, 2004

Mr. GREGG introduced the following bill; which was read the first time

MAY 20, 2004

Read the second time and placed on the calendar

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**A BILL**

To coordinate rights under the Uniformed Services Employ-  
ment and Reemployment Rights Act of 1994 with other  
Federal laws.

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 “Uniformed Services  
5       Differential Pay Protection Act”.

1 **SEC. 2. COORDINATION OF USERRA WITH OTHER FEDERAL**  
 2 **LAWS.**

3 (a) TREATMENT OF DIFFERENTIAL PAYMENT AS  
 4 WAGES FOR PURPOSES OF INCOME TAX WITH-  
 5 HOLDING.—Section 4302 of title 38, United States Code,  
 6 is amended by adding at the end the following:

7 “(c)(1) For purposes of chapter 24 of the Internal  
 8 Revenue Code of 1986 (relating to collection of income tax  
 9 at source on wages), any differential wage payment shall  
 10 be treated as a payment of wages by the employer to the  
 11 employee.

12 “(2) For purposes of paragraph (1), the term ‘dif-  
 13 ferential wage payment’ means any payment which—

14 “(A) is made by an employer to an employee  
 15 with respect to any period during which the em-  
 16 ployee is performing service in the uniformed serv-  
 17 ices while on active duty for a period of more than  
 18 30 days, and

19 “(B) represents all or a portion of the dif-  
 20 ference between the wages the employee would have  
 21 received from the employer if not performing service  
 22 in the uniformed services and the wages paid for  
 23 performing such service.”.

24 (b) CONTINUED CONTRIBUTIONS TO PENSION  
 25 PLANS.—Section 4318 of title 38, United States Code, is  
 26 amended by adding at the end the following:

1       “(d) For purposes of the Employee Retirement In-  
2 come Security Act of 1974 and the Internal Revenue Code  
3 of 1986, any employer or employee contributor to an em-  
4 ployee pension benefit plan to which this section applies  
5 with respect to any period during which the employee is  
6 performing service in the uniformed services while on ac-  
7 tive duty for a period of more than 30 days shall be treat-  
8 ed as a contribution with respect to a current employee  
9 of the employer.”.

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