

104TH CONGRESS
2D SESSION

H. R. 2857

To provide for relief to Federal employees, Federal contractors, and employees of Federal contractors for expenses incurred as a result of nonpayment of basic pay or impediments against contract performance arising from lapses in appropriations.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 5, 1996

Mrs. MINK of Hawaii (for herself, Mr. ABERCROMBIE, Mr. MILLER of California, Ms. PELOSI, Ms. JACKSON-LEE of Texas, Mr. MORAN, Mr. HOYER, and Mr. DELLUMS) introduced the following bill; which was referred to the Committee on Government Reform and Oversight, and in addition to the Committee on Ways and Means, 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 for relief to Federal employees, Federal contractors, and employees of Federal contractors for expenses incurred as a result of nonpayment of basic pay or impediments against contract performance arising from 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,*

1 **SECTION 1. ENTITLEMENT TO REIMBURSEMENT FOR FI-**
2 **NANCIAL HARM INCURRED BY FEDERAL EM-**
3 **PLOYEES, FEDERAL CONTRACTORS, AND EM-**
4 **PLOYEES OF FEDERAL CONTRACTORS ARIS-**
5 **ING FROM FAILURE TO BE PAID DURING PE-**
6 **RIODS OF LAPSED APPROPRIATIONS.**

7 (a) FINANCIAL HARM TO FEDERAL EMPLOYEES.—

8 Upon the termination of any period of lapsed appropria-
9 tions with respect to an agency or instrumentality of the
10 Federal Government or the District of Columbia, in addi-
11 tion to any basic pay payable to each individual who is
12 an officer or employee of such agency or instrumentality
13 during such period for any service performed during such
14 period, such officer or employee shall be entitled to reim-
15 bursement by such agency or instrumentality for financial
16 harm incurred by such individual resulting from—

17 (1) any failure to provide for the timely pay-
18 ment of basic pay to such individual for service per-
19 formed during such period, or

20 (2) the inability of such individual to earn basic
21 pay for service during such period under section
22 1342 of title 31, United States Code.

23 (b) FINANCIAL HARM TO FEDERAL CONTRAC-
24 TORS.—Upon the termination of any period of lapsed ap-
25 propriations with respect to an agency or instrumentality
26 of the Federal Government or the District of Columbia,

1 in addition to any payment under a Federal contract due
2 to a Federal contractor during such period and any inter-
3 est penalty on such payment in accordance with section
4 3902 of title 31, United States Code, such contractor shall
5 be entitled to reimbursement by such agency or instru-
6 mentality for financial harm incurred by such contractor
7 resulting from—

8 (1) any failure to provide for the timely pay-
9 ment of payments due under the contract to the con-
10 tractor during such period, or

11 (2) the inability of such contractor to perform
12 the contract during such period.

13 (c) FINANCIAL HARM TO EMPLOYEES OF FEDERAL
14 CONTRACTORS.—Upon the termination of any period of
15 lapsed appropriations with respect to an agency or instru-
16 mentality of the Federal Government or the District of
17 Columbia, each individual who is an employee of a Federal
18 contractor or of a subcontractor under a Federal contract
19 in effect during such period shall be entitled to reimburse-
20 ment by such agency or instrumentality for financial harm
21 incurred by such individual resulting from—

22 (1) any failure by the contractor or subcontrac-
23 tor to provide for the timely payment of the individ-
24 ual for service performed during such period under
25 the contract or subcontract, or

1 (2) the inability of such individual to earn pay
2 for service under the contract or subcontract during
3 such period.

4 **SEC. 2. ADMINISTRATIVE REMEDY.**

5 In any case in which an individual or contractor has
6 not been provided, within 60 days after the period of
7 lapsed appropriations involved, any reimbursement by an
8 agency or instrumentality of the Federal Government or
9 the District of Columbia to which the individual or con-
10 tractor is entitled under section 1, a claim may be made
11 by such individual or contractor against such agency or
12 instrumentality for recovery of such reimbursement. De-
13 terminations by the agency or instrumentality on such
14 claim shall be made on the record after opportunity for
15 an agency hearing. Any individual aggrieved by any final
16 determination by the agency or instrumentality under this
17 section may, during the 60-day period beginning on the
18 date the determination is issued, institute an action for
19 judicial review of the determination in any district court
20 of the United States in which an office of the agency or
21 instrumentality is located or in the United States District
22 Court for the District of Columbia.

23 **SEC. 3. DEFINITIONS.**

24 For purposes of this Act:

1 (1) PERIOD OF LAPSED APPROPRIATIONS.—The
2 term “period of lapsed appropriations” means, in
3 connection with an agency or instrumentality of the
4 Federal Government or the District of Columbia,
5 any period during which appropriations are not
6 available due to the absence of the timely enactment
7 of any Act or joint resolution appropriating funds
8 for such agency or instrumentality.

9 (2) FINANCIAL HARM.—The term “financial
10 harm”—

11 (A) in connection with any individual, in-
12 cludes—

13 (i) interest accrued on debts incurred
14 by the individual during the period of
15 lapsed appropriations necessary to meet
16 expenses which would have arisen irrespec-
17 tive of whether the period of lapsed appro-
18 priations had occurred,

19 (ii) penalties incurred by reason of in-
20 ability of the individual to make timely
21 payments of bills or other obligations
22 which would have become due irrespective
23 of whether the period of lapsed appropria-
24 tions had occurred,

1 (iii) other monetary loss incurred by
2 reason of forfeiture of property or other-
3 wise, and

4 (iv) in the case of an individual who
5 is an employee of a Federal contractor,
6 wages foregone by the employee for any
7 service performed by the employee during
8 the period of lapsed appropriations that
9 were not later paid by the contractor; and

10 (B) in connection with any Federal con-
11 tractor, includes—

12 (i) interest accrued on debts incurred
13 by the contractor in connection with a
14 Federal contract during the period of
15 lapsed appropriations necessary to meet
16 expenses which would have arisen irrespec-
17 tive of whether the period of lapsed appro-
18 priations had occurred,

19 (ii) penalties incurred by reason of in-
20 ability of the contractor to make timely
21 payments of bills or other obligations
22 which would have become due irrespective
23 of whether the period of lapsed appropria-
24 tions had occurred, and

- 1 (iii) other monetary loss incurred by
- 2 reason of forfeiture of property or other-
- 3 wise.

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