

H.R. 920: Mr. WALSH.  
 H.R. 940: Mr. KLINE.  
 H.R. 944: Mr. SCOTT of Virginia, Mr. TANNER, and Mr. CHANDLER.  
 H.R. 945: Mr. LANTOS, Ms. JACKSON-LEE of Texas, and Ms. SCHAKOWSKY.  
 H.R. 946: Ms. JACKSON-LEE of Texas and Ms. SCHAKOWSKY.  
 H.R. 952: Mr. FARR, Ms. DELAURO, Mr. McNULTY, and Mr. CAPUANO.  
 H.R. 968: Mr. WEXLER.  
 H.R. 976: Mr. CANNON.  
 H.R. 985: Mr. PORTMAN, Ms. HART, Mr. SMITH of New Jersey, Mr. WILSON of South Carolina, Mr. FALDOMAEGA, Mr. GRIJALVA, Mr. HIGGINS, Mr. CHANDLER, Mr. MARCHANT, Mr. KANJORSKI, Mr. BEAUPREZ, Mr. McNULTY, Mr. KOLBE, Mr. BERRY, Mr. WU, Mr. KILDEE, Mr. ETHERIDGE, Mr. CAPUANO, Mr. WELDON of Pennsylvania, Mr. ORTIZ, Mr. LANGEVIN, Mr. BLUMENAUER, and Mr. DEFAZIO.  
 H.R. 986: Mr. WEXLER.  
 H.R. 994: Mr. BOYD, Mr. SULLIVAN, Mr. NORWOOD, Mr. FARR, Mr. YOUNG of Florida, Mr. BOSWELL, Mr. PAUL, Mr. GENE GREEN of Texas, Mr. DICKS, Mr. LYNCH, Ms. HARRIS, Mr. OBERSTAR, Mr. SMITH of Washington, Mr. SAXTON, Mr. BRADY of Pennsylvania, Mr. SCOTT of Georgia, Mr. MCINTYRE, Mr. LOBONDO, Mr. REYES, Mr. ROTHMAN, Mr. HASTINGS of Florida, Mr. DOOLITTLE, and Mr. BURTON of Indiana.  
 H.R. 1001: Mr. HALL, Mr. SMITH of Texas, and Ms. JACKSON-LEE of Texas.  
 H.R. 1002: Ms. BALDWIN and Ms. CARSON.  
 H.R. 1010: Mr. EMANUEL.  
 H.R. 1011: Mr. AL GREEN of Texas.  
 H.R. 1057: Mr. FOSSELLA.  
 H.R. 1078: Mr. PALLONE.  
 H.R. 1079: Mr. TAYLOR of Mississippi.  
 H.R. 1092: Mrs. MYRICK.  
 H.R. 1100: Mrs. MILLER of Michigan and Mr. OTTER.  
 H.R. 1104: Ms. DELAURO.  
 H.R. 1105: Mrs. CAPITO.  
 H.R. 1136: Mr. SHAYS and Mrs. MCCARTHY.  
 H.R. 1142: Mr. AKIN.  
 H.R. 1151: Mr. ROGERS of Kentucky, Mr. CRAMER, Mr. MCCAUL of Texas, Mr. NUSSLE, Mr. LUCAS, Mr. KINGSTON, Mr. FERGUSON, Mr. MELANCON, Mrs. MILLER of Michigan, Mr. SESSIONS, Mr. SAXTON, Mr. GIBBONS, and Mr. KILDEE.  
 H.R. 1155: Ms. SCHAKOWSKY and Ms. ROYBAL-ALLARD.  
 H.R. 1184: Ms. WOOLSEY, Mr. BUTTERFIELD, Mr. McNULTY, Mr. LEWIS of Georgia, and Mr. ANDREWS.  
 H.R. 1214: Mr. OLVER, Mr. HOLT, Ms. EDDIE BERNICE JOHNSON of Texas, Ms. CARSON, Ms. WASSERMAN SCHULTZ, and Mr. KUCINICH.  
 H.R. 1226: Mrs. MCCARTHY and Mr. SESSIONS.  
 H.R. 1227: Mrs. EMERSON, Mr. PALLONE, Mr. HOLT, Mr. CASE, Mr. CHANDLER, Mr. BROWN of Ohio, and Mr. BASS.  
 H.R. 1243: Mr. MILLER of Florida and Mr. HERGER.  
 H.R. 1245: Ms. HART, Ms. BEAN, Mr. BROWN of South Carolina, Mr. JENKINS, Mr. WYNN, Mr. KNOLLENBERG, Mr. KENNEDY of Rhode Island, and Ms. MCCOLLUM of Minnesota.  
 H.R. 1249: Mr. CARNAHAN, Mr. BISHOP of Georgia, Mr. SMITH of Washington, Ms. BERKLEY, Mr. MCGOVERN, Mr. ROSS, Mr. DINGELL, Mr. LEVIN, Ms. MILLENDER-McDONALD, Mr. STRICKLAND, Mr. FORD, and Mr. LIPINSKI.  
 H.R. 1263: Mr. BOUCHER.  
 H.J. Res. 23: Mrs. WILSON of New Mexico, Mr. COSTA, Mr. Brown of Ohio, and Mr. DEFAZIO.  
 H. Con. Res. 85: Mr. MCCAUL of Texas.  
 H. Con. Res. 88: Mr. KUCINICH.

H. Res. 20: Mr. CONAWAY, Ms. FOXX, Mr. GOODLATTE, Mr. GORDON, and Mrs. MILLER of Michigan.  
 H. Res. 84: Mrs. MUSGRAVE and Mrs. JOHNSON of Connecticut.  
 H. Res. 90: Mr. KUCINICH, Mr. BUTTERFIELD, and Ms. SCHAKOWSKY.  
 H. Res. 101: Mr. OWENS, Mr. GORDON, Mr. BLUNT, and Mr. ROTHMAN.  
 H. Res. 116: Mr. ROTHMAN and Mr. SKELTON.  
 H. Res. 120: Ms. SCHAKOWSKY, Mr. BUTTERFIELD, Mr. KILDEE, and Mr. NEUGEBAUER.  
 H. Res. 123: Ms. ESHOO.  
 H. Res. 131: Mr. BARROW, Mrs. CHRISTENSEN, Ms. LINDA T. SANCHEZ of California, Mr. BERRY, Mr. CRAMER, Mr. FATTAH, Mr. HOLDEN, Ms. JACKSON-LEE of Texas, Mr. SABO, Mr. VISLOSKEY, Mr. ALLEN, Mr. MICHAUD, Mr. DAVIS of Tennessee, Ms. BALDWIN, Ms. BEAN, Mr. BOREN, Mr. BOYD, Ms. CORRINE BROWN of Florida, Mr. BROWN of Ohio, Mr. CARNAHAN, Ms. CARSON, Mr. CLAY, Mr. CLYBURN, Mr. DAVIS of Alabama, Mr. DAVIS of Illinois, Mr. DAVIS of Florida, Ms. DEGETTE, Mr. EDWARDS, Mr. EMANUEL, Ms. ESHOO, Mr. FILNER, Mr. FORD, Mr. GONZALEZ, Mr. GORDON, Mr. AL GREEN of Texas, Mr. GUTIERREZ, Mr. HIGGINS, Mr. HINOJOSA, Mr. ISRAEL, Mr. KUCINICH, Mr. LEVIN, Mr. LEWIS of Georgia, Mr. LIPINSKI, Mr. LYNCH, Mr. MARKEY, Mr. MARSHALL, Mr. MATHESON, Ms. MCCOLLUM of Minnesota, Mr. MEEKS of New York, Mr. MELANCON, Ms. MILLENDER-McDONALD, Ms. MOORE of Wisconsin, Mrs. NAPOLITANO, Mr. OWENS, Mr. PALLONE, Mr. PETERSON of Minnesota, Mr. RANGEL, Mr. REYES, Mr. ROSS, Mr. ROTHMAN, Mr. RUPERSBERGER, Mr. RUSH, Mr. SALAZAR, Ms. LORETTA SANCHEZ of California, Ms. SCHWARTZ of Pennsylvania, Mr. SERRANO, Mr. SKELTON, Mr. SPRATT, Mr. STARK, Mr. STRICKLAND, Mr. THOMPSON of California, Mr. TIERNEY, Ms. VELÁZQUEZ, Ms. WASSERMAN SCHULTZ, Ms. WATERS, Mr. WEINER, Mr. WEXLER, and Mr. WU.  
 H. Res. 135: Mr. BISHOP of Utah, Mr. BLUNT, Mr. SNYDER, Mr. THOMAS, and Mr. MCCOTTER.

AMENDMENTS

Under clause 8 of rule XVIII, proposed amendments were submitted as follows:

H.R. 1268

OFFERED BY: Mr. BLUMENAUER

AMENDMENT No. 1: At the end of the bill (before the short title), insert the following:

TITLE VII—ADDITIONAL GENERAL PROVISIONS

SEC. 7001. None of the funds appropriated in this Act shall be available for the torture of any person who is imprisoned, detained, or otherwise held in the custody of, a department, agency, or official of the United States Government, or any contractor of any such department or agency.

H.R. 1268

OFFERED BY: Mr. BLUMENAUER

AMENDMENT No. 2: At the end of the bill (before the short title), insert the following:

TITLE VII—ADDITIONAL GENERAL PROVISIONS

SEC. 7001. None of the funds appropriated in this Act shall be available for—

(1) the torture of any person who is imprisoned, detained, or otherwise held in the custody of, a department, agency, or official of the United States Government, or any contractor of any such department or agency; or

(2) the involuntary return of any person to a country in which there are substantial grounds for believing the person would be in danger of being subjected to torture, regardless of whether the person is physically present in the United States, pursuant to section 1242 of the Foreign Affairs Reform and Restructuring Act of 1998.

H.R. 1268

OFFERED BY: Ms. JACKSON-LEE OF TEXAS  
 AMENDMENT No. 3: Page 46, after line 20, insert the following:

IMMIGRATION AND CUSTOMS ENFORCEMENT SALARIES AND EXPENSES

For an additional amount for “Salaries and Expenses”, hereby derived from the amount provided in this Act for “UNITED STATES COAST GUARD—OPERATING EXPENSES”, \$40,000,000.

H.R. 1268

OFFERED BY: Mr. LANTOS

AMENDMENT No. 4: Add at the end (before the short title) the following new title:

TITLE VII—HOPE AT HOME ACT

SEC. 701. SHORT TITLE.

This title may be cited as the “Help Our Patriotic Employers at Helping Our Military Employees Act” or the “HOPE at HOME Act”.

SEC. 702. NONREDUCTION IN PAY WHILE FEDERAL EMPLOYEE IS SERVING ON ACTIVE DUTY IN A RESERVE COMPONENT OF THE UNIFORMED SERVICES.

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

“§ 5538. Nonreduction in pay while serving on active duty in a reserve component

“(a) An employee who is also a member of a reserve component and is absent from a position of employment with the Federal Government under a call or order to serve on active duty for a period of more than 30 days shall be entitled to receive, for each pay period described in subsection (b), an amount equal to the difference (if any) between—

“(1) the amount of civilian basic pay that would otherwise have been payable to the employee for such pay period if the employee’s civilian employment with the Government had not been interrupted by the service on active duty; and

“(2) the amount of military compensation that is payable to the employee for the service on active duty and is allocable to such pay period.

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

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

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

“(C) during the 14-day period beginning at the end of such active duty or the end of the period referred to in subparagraph (B).

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

“(c) Any amount payable under this section to an employee shall be paid—

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

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

“(3) to the extent practicable, at the same time and in the same manner as would civilian basic pay if the employee's civilian employment had not been interrupted.

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

“(e) In consultation with the Office of Personnel Management, the head of each employing agency shall prescribe procedures to ensure that the rights under this section apply to the employees of such agency. In consultation with the Office of Personnel Management, the Administrator of the Federal Aviation Administration shall prescribe procedures to ensure that the rights under this section apply to the employees of that agency.

“(f) In this section:

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

“(2) The term ‘civilian basic pay’, with respect to an employee, includes any amount payable under section 5304 of this title or under such other law providing for the compensation of the employee by the employing agency for work performed.

“(3) The term ‘employing agency’, as used with respect to an employee entitled to any payments under this section, means the agency with respect to which the employee has reemployment rights under chapter 43 of title 38. The term ‘agency’ has the meaning given such term in subparagraph (C) of section 2302(a)(2) of this title, except that the term includes Government corporations and agencies excluded by clause (i) or (ii) of such subparagraph.

“(4) The term ‘military compensation’ has the meaning given the term ‘pay’ in section 101(21) of title 37, except that the term includes allowances under chapter 7 of such title.”

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

“5538. Nonreduction in pay while serving on active duty in a reserve component.”

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

**SEC. 703. ACTIVE-DUTY RESERVE COMPONENT EMPLOYEE CREDIT ADDED TO GENERAL BUSINESS CREDIT.**

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

**“SEC. 45J. ACTIVE-DUTY RESERVE COMPONENT EMPLOYEE CREDIT.**

“(a) GENERAL RULE.—For purposes of section 38, the Ready Reserve-National Guard employee credit determined under this section for any taxable year with respect to each Ready Reserve-National Guard employee of an employer is an amount equal to the lesser of—

“(1) 50 percent of the actual compensation amount paid with respect to such Ready Re-

serve-National Guard employee for such taxable year while the employee is absent from employment for a reason described in subsection (b); or

“(2) \$30,000.

“(b) COVERED PAY PERIODS.—Subsection (a) shall apply with respect to a Ready Reserve-National Guard employee—

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

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

“(3) during the 14-day period beginning at the end of such active duty or the end of the period referred to in subparagraph (B).

“(c) LIMITATION.—No credit shall be allowed under subsection (a) with respect to a Ready Reserve-National Guard employee on any day on which the employee was not scheduled to work (for a reason other than such service on active duty) and ordinarily would not have worked.

“(d) PORTION OF CREDIT REFUNDABLE.—

“(1) IN GENERAL.—In the case of an employer described in paragraph (2), the aggregate credits allowed to a taxpayer under subpart C shall be increased by the lesser of—

“(A) the credit which would be allowed under this section without regard to this subsection and the limitation under section 38(c), or

“(B) the amount by which the aggregate amount of credits allowed by this subpart (determined without regard to this subsection) would increase if the limitation imposed by section 38(c) for any taxable year were increased by the amount of employer payroll taxes imposed on the taxpayer during the calendar year in which the taxable year begins.

The amount of the credit allowed under this subsection shall not be treated as a credit allowed under this subpart and shall reduce the amount of the credit otherwise allowable under subsection (a) without regard to section 38(c).

“(2) EMPLOYER DESCRIBED.—An employer is described in this paragraph if the employer is—

“(A) an organization exempt from tax under this chapter,

“(B) any State or political subdivision thereof, the District of Columbia, any possession of the United States, or any agency or instrumentality of any of the foregoing, or

“(C) any Indian tribal government (within the meaning of section 7871) or any agency or instrumentality thereof.

“(3) EMPLOYER PAYROLL TAXES.—For purposes of this subsection—

“(A) IN GENERAL.—The term ‘employer payroll taxes’ means the taxes imposed by—

“(i) section 3111(b), and

“(ii) sections 3211(a) and 3221(a) (determined at a rate equal to the rate under section 3111(b)).

“(B) SPECIAL RULE.—A rule similar to the rule of section 24(d)(2)(C) shall apply for purposes of subparagraph (A).

“(e) DEFINITIONS.—In this section—

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

“(2) The term ‘compensation’ means any remuneration for employment, whether in cash or in kind, which is paid or incurred by a taxpayer and which is deductible from the taxpayer's gross income under section 162(a)(1).

“(3) The term ‘Ready Reserve-National Guard employee’ with respect to an employer, means an employee of the employer who is also a member of a reserve component during a taxable year.”

(b) CREDIT TO BE PART OF GENERAL BUSINESS CREDIT.—Subsection (b) of section 38 of such Code (relating to general business credit) is amended by striking “plus” at the end of paragraph (18), by striking the period at the end of paragraph (19) and inserting “, plus”, and by adding at the end the following new paragraph:

“(20) the active-duty reserve component employee credit determined under section 45J(a).”

(c) CONFORMING AMENDMENT.—

(1) Paragraph (2) of section 1324(b) of title 31, United States Code, is amended by inserting “or 45J” after “section 35”.

(2) The table of sections for subpart D of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 is amended by inserting after the item relating to section 45I the following new item:

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

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2004.

**SEC. 704. DIFFERENTIAL WAGE PAYMENTS.**

(a) INCOME TAX WITHHOLDING.—Section 3401 of the Internal Revenue Code of 1986 (relating to definitions) is amended by adding at the end the following new subsection:

“(i) DIFFERENTIAL WAGE PAYMENTS TO ACTIVE DUTY MEMBERS OF THE UNIFORMED SERVICES.—

“(1) IN GENERAL.—For purposes of subsection (a), any differential wage payment shall be treated as a payment of wages by the employer to the employee.

“(2) DIFFERENTIAL WAGE PAYMENT.—For purposes of paragraph (1), the term ‘differential wage payment’ means any payment which—

“(A) is made by an employer to an individual with respect to any period during which the individual is performing service in the uniformed services while on active duty for a period of more than 30 days, and

“(B) represents all or a portion of the wages the individual would have received from the employer if the individual were performing service for the employer.”

(b) TREATMENT OF DIFFERENTIAL WAGE PAYMENTS FOR RETIREMENT PLAN PURPOSES.—

(1) PENSION PLANS.—

(A) IN GENERAL.—Section 414(u) of such Code (relating to special rules relating to veterans' reemployment rights under USERRA) is amended by adding at the end the following new paragraph:

“(11) TREATMENT OF DIFFERENTIAL WAGE PAYMENTS.—

“(A) IN GENERAL.—Except as provided in this paragraph, for purposes of applying this title to a retirement plan to which this subsection applies—

“(i) an individual receiving a differential wage payment shall be treated as an employee of the employer making the payment,

“(ii) the differential wage payment shall be treated as compensation, and

“(iii) the plan shall not be treated as failing to meet the requirements of any provision described in paragraph (1)(C) by reason of any contribution which is based on the differential wage payment.

“(B) SPECIAL RULE FOR DISTRIBUTIONS.—

“(i) IN GENERAL.—Notwithstanding subparagraph (A)(i), for purposes of section 401(k)(2)(B)(i)(I), 403(b)(7)(A)(ii), 403(b)(11)(A),

or 457(d)(1)(A)(ii), an individual shall be treated as having been severed from employment during any period the individual is performing service in the uniformed services described in section 3401(i)(2)(A).

“(ii) LIMITATION.—If an individual elects to receive a distribution by reason of clause (i), the plan shall provide that the individual may not make an elective deferral or employee contribution during the 6-month period beginning on the date of the distribution.

“(C) NONDISCRIMINATION REQUIREMENT.—Subparagraph (A)(iii) shall apply only if all employees of an employer performing service in the uniformed services described in section 3401(i)(2)(A) are entitled to receive differential wage payments on reasonably equivalent terms and, if eligible to participate in a retirement plan maintained by the employer, to make contributions based on the payments. For purposes of applying this subparagraph, the provisions of paragraphs (3), (4), and (5), of section 410(b) shall apply.

“(D) DIFFERENTIAL WAGE PAYMENT.—For purposes of this paragraph, the term ‘differential wage payment’ has the meaning given such term by section 3401(i)(2).”

(B) CONFORMING AMENDMENT.—The heading for section 414(u) of such Code is amended by inserting “AND TO DIFFERENTIAL WAGE PAYMENTS TO MEMBERS ON ACTIVE DUTY” after “USERRA”.

(2) DIFFERENTIAL WAGE PAYMENTS TREATED AS COMPENSATION FOR INDIVIDUAL RETIREMENT PLANS.—Section 219(f)(1) of such Code (defining compensation) is amended by adding at the end the following new sentence: “The term ‘compensation’ includes any differential wage payment (as defined in section 3401(i)(2)).”

(c) EFFECTIVE DATES.—

(1) SUBSECTION (a).—The amendments made by subsection (a) shall apply to remuneration paid after December 31, 2004.

(2) SUBSECTION (b).—The amendments made by subsection (b) shall apply to plan years beginning after December 31, 2004.

(d) PROVISIONS RELATING TO PLAN AMENDMENTS.—

(1) IN GENERAL.—If this subsection applies to any plan or annuity contract amendment—

(A) such plan or contract shall be treated as being operated in accordance with the terms of the plan or contract during the period described in paragraph (2)(B)(i), and

(B) except as provided by the Secretary of the Treasury, such plan shall not fail to meet the requirements of the Internal Revenue Code of 1986 or the Employee Retirement Income Security Act of 1974 by reason of such amendment.

(2) AMENDMENTS TO WHICH SECTION APPLIES.—

(A) IN GENERAL.—This subsection shall apply to any amendment to any plan or annuity contract which is made—

(i) pursuant to any amendment made by this section, and

(ii) on or before the last day of the first plan year beginning on or after January 1, 2007.

(B) CONDITIONS.—This subsection shall not apply to any plan or annuity contract amendment unless—

(i) during the period beginning on the date the amendment described in subparagraph (A)(i) takes effect and ending on the date described in subparagraph (A)(ii) (or, if earlier, the date the plan or contract amendment is adopted), the plan or contract is operated as if such plan or contract amendment were in effect; and

(ii) such plan or contract amendment applies retroactively for such period.

**SEC. 705. CREDIT FOR INCOME DIFFERENTIAL FOR EMPLOYMENT OF ACTIVATED MILITARY RESERVIST AND REPLACEMENT PERSONNEL.**

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

**“SEC. 30B. EMPLOYER WAGE CREDIT FOR ACTIVATED MILITARY RESERVISTS.**

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

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

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

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

“(1) QUALIFIED EMPLOYEES.—

“(A) IN GENERAL.—The employment credit with respect to a qualified employee of the taxpayer for any taxable year is equal to 50 percent of the lesser of—

“(i) the excess, if any, of—

“(I) the qualified employee’s average daily qualified compensation for the taxable year, over

“(II) the average daily military pay and allowances received by the qualified employee during the taxable year, while participating in qualified reserve component duty to the exclusion of the qualified employee’s normal employment duties for the number of days the qualified employee participates in qualified reserve component duty during the taxable year, including time spent in a travel status, or

“(ii) \$30,000.

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

“(B) AVERAGE DAILY QUALIFIED COMPENSATION AND AVERAGE DAILY MILITARY PAY AND ALLOWANCES.—As used with respect to a qualified employee—

“(i) the term ‘average daily qualified compensation’ means the qualified compensation of the qualified employee for the taxable year divided by the difference between—

“(I) 365, and

“(II) the number of days the qualified employee participates in qualified reserve component duty during the taxable year, including time spent in a travel status, and

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

“(I) the amount paid to the qualified employee during the taxable year as military pay and allowances on account of the qualified employee’s participation in qualified reserve component duty, divided by

“(II) the total number of days the qualified employee participates in qualified reserve component duty, including time spent in travel status.

“(C) QUALIFIED COMPENSATION.—When used with respect to the compensation paid or that would have been paid to a qualified employee for any period during which the qualified employee participates in qualified reserve component duty, the term ‘qualified compensation’ means—

“(i) compensation which is normally contingent on the qualified employee’s presence for work and which would be deductible from the taxpayer’s gross income under section

162(a)(1) if the qualified employee were present and receiving such compensation,

“(ii) compensation which is not characterized by the taxpayer as vacation or holiday pay, or as sick leave or pay, or as any other form of pay for a nonspecific 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 31-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 50 percent of the lesser of—

“(i) the individual’s qualified compensation attributable to service rendered as a qualified replacement employee, or

“(ii) \$12,000.

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

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

“(i) compensation which is normally contingent on the qualified replacement employee’s presence for work and which is deductible from the taxpayer’s gross income under section 162(a)(1),

“(ii) compensation which is not characterized by the taxpayer as vacation or holiday pay, or as sick leave or pay, or as any other form of pay for a nonspecific leave of absence, and

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

“(C) QUALIFIED REPLACEMENT EMPLOYEE.—

The term ‘qualified replacement employee’ means an individual who is hired to replace a qualified employee or a qualified self-employed taxpayer, but only with respect to the period during which such employee or taxpayer participates in qualified reserve component duty, including time spent in travel status.

“(D) FAILURE TO MAKE DIFFERENTIAL WAGE PAYMENTS.—The employment credit with respect to a qualified replacement employee of the taxpayer for any taxable year shall be zero if the taxpayer does not make all differential wage payments (as defined by section 3401(i)(2)) for the taxable year to the qualified employee or the qualified self-employed taxpayer (as the case may be) who is replaced by the qualified replacement employee.

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

“(1) IN GENERAL.—The self-employment credit of a qualified self-employed taxpayer for any taxable year is equal to 50 percent of the lesser of—

“(A) the excess, if any, of—

“(i) the self-employed taxpayer’s average daily self-employment income for the taxable year over

“(ii) the average daily military pay and allowances received by the taxpayer during the taxable year, while participating in qualified reserve component duty to the exclusion of the taxpayer’s normal self-employment duties for the number of days the taxpayer participates in qualified reserve component duty during the taxable year, including time spent in a travel status, or

“(B) \$30,000.

“(2) AVERAGE DAILY SELF-EMPLOYMENT INCOME AND AVERAGE DAILY MILITARY PAY AND ALLOWANCES.—As used with respect to a self-employed taxpayer—

“(A) the term ‘average daily self-employment income’ means the self-employment income (as defined in section 1402(b)) of the taxpayer for the taxable year plus the amount paid for insurance which constitutes medical care for the taxpayer for such year (within the meaning of section 162(1)) divided by the difference between—

“(i) 365, and

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

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

“(i) the amount paid to the taxpayer during the taxable year as military pay and allowances on account of the taxpayer’s participation in qualified reserve component duty, divided by

“(ii) the total number of days the taxpayer participates in qualified reserve component duty, including time spent in travel status.

“(3) QUALIFIED SELF-EMPLOYED TAXPAYER.—The term ‘qualified self-employed taxpayer’ means a taxpayer who—

“(A) has net earnings from self-employment (as defined in section 1402(a)) for the taxable year, and

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

“(d) CREDIT IN ADDITION TO DEDUCTION.—The employment credit or the self-employment credit provided in this section is in addition to any deduction otherwise allowable with respect to compensation actually paid to a qualified employee, qualified replacement employee, or qualified self-employed taxpayer during any period the qualified employee or qualified self-employed taxpayer participates in qualified reserve component duty to the exclusion of normal employment duties.

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

“(f) LIMITATIONS.—

“(1) APPLICATION WITH OTHER CREDITS.—The credit allowed under subsection (a) for any taxable year shall not exceed the excess (if any) of—

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

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

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

“(A) any taxable year, beginning after the date of the enactment of this section, in which the taxpayer is under a final order, judgment, or other process issued or required by a district court of the United States under section 4323 of title 38 of the United States Code with respect to a violation of chapter 43 of such title, and

“(B) the 2 succeeding taxable years.

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

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

“(B) Training at encampments, maneuvers, outdoor target practice, or other exercises under chapter 5 of title 32, United States Code.

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

“(g) GENERAL DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

“(1) SMALL BUSINESS EMPLOYER.—

“(A) IN GENERAL.—The term ‘small business employer’ means, with respect to any taxable year, any employer who employed an average of 50 or fewer employees on business days during such taxable year.

“(B) CONTROLLED GROUPS.—For purposes of subparagraph (A), all persons treated as a single employer under subsection (b), (c), (m), or (o) of section 414 shall be treated as a single employer.

“(2) MILITARY PAY AND ALLOWANCES.—The term ‘military pay’ means pay as that term is defined in section 101(21) of title 37, United States Code, and the term ‘allowances’ means the allowances payable to a member of the Armed Forces of the United States under chapter 7 of that title.

“(3) QUALIFIED RESERVE COMPONENT DUTY.—The term ‘qualified reserve component duty’ includes only active duty performed, as designated in the reservist’s military orders, in support of a contingency operation as defined in section 101(a)(13) of title 10, United States Code.

“(4) SPECIAL RULE FOR CERTAIN MANUFACTURERS.—

“(A) IN GENERAL.—In the case of any qualified manufacturer, paragraph (1)(A) of this subsection shall be applied by substituting ‘100’ for ‘50’.

“(B) QUALIFIED MANUFACTURER.—For purposes of this paragraph, the term ‘qualified manufacturer’ means any person if—

“(i) the primary business of such person is classified in sector 31, 32, or 33 of the North American Industrial Classification System, and

“(ii) all of such person’s facilities which are used for production in such business are located in the United States.

“(5) CARRYBACK AND CARRYFORWARD ALLOWED.—

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

“(B) RULES.—Rules similar to the rules of section 39 shall apply with respect to the credit carryback and credit carryforward under subparagraph (A).

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

(b) CONFORMING AMENDMENT.—Section 55(c)(2) of the Internal Revenue Code of 1986 is amended by inserting “30B(f)(1),” after “30(b)(3).”.

(c) CLERICAL AMENDMENT.—The table of sections for subpart B of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 is amended by adding at the end of 30A the following new item:

“Sec. 30B. Employer wage credit for activated military reservists.”.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2004.

#### SEC. 706. EMPLOYER CONTRIBUTIONS TO IRAS OF CERTAIN MEMBERS OF THE UNIFORMED SERVICES.

(a) IN GENERAL.—Section 3121 of the Internal Revenue Code of 1986 is amended by adding at the end the following:

“(z) EMPLOYER CONTRIBUTIONS TO IRAS OF CERTAIN MEMBERS OF THE UNIFORMED SERVICES.—Nothing in any paragraph of subsection (a) (other than paragraphs (1) and (5)) shall exclude from the term ‘wages’ any employer payment on behalf of an individual to an individual retirement plan if such payment is made by the employer to such plan with respect to any period during which the individual is performing service in the uniformed services while on active duty for a period of more than 30 days.”.

(b) RAILROAD RETIREMENT.—Subsection (e) of Section 3231 of such Code is amended by adding at the end the following new paragraph:

“(1) EMPLOYER CONTRIBUTIONS TO IRAS OF CERTAIN MEMBERS OF THE UNIFORMED SERVICES.—Nothing in any paragraph of this subsection (other than paragraph (2)) shall exclude from the term ‘compensation’ any amount described in section 3121(z).”.

(c) FEDERAL UNEMPLOYMENT TAX.—Section 3306 of such Code is amended by adding at the end the following:

“(u) EMPLOYER CONTRIBUTIONS TO IRAS OF CERTAIN MEMBERS OF THE UNIFORMED SERVICES.—Nothing in any paragraph of subsection (b) (other than paragraphs (1) and (5)) shall exclude from the term ‘wages’ any employer payment on behalf of an individual to an individual retirement plan if such payment is made by the employer to such plan with respect to any period during which the individual is performing service in the uniformed services while on active duty for a period of more than 30 days.”.

(d) WITHHOLDING.—Section 3401(a) of such Code is amended by adding at the end the following new subsection:

“(u) EMPLOYER CONTRIBUTIONS TO IRAS OF CERTAIN MEMBERS OF THE UNIFORMED SERVICES.—Nothing in any paragraph of subsection (a) (other than paragraph (12)) shall exclude from the term ‘wages’ any amount described in section 3121(z).”.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts paid after December 31, 2004.

#### SEC. 707. EMERGENCY DESIGNATION.

Amounts provided pursuant to the amendments made by this title are designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).