

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.

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## 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

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## 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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