

109TH CONGRESS  
1ST SESSION

# S. 417

To amend the Internal Revenue Code of 1986 to provide for a refundable wage differential credit for activated military reservists.

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IN THE SENATE OF THE UNITED STATES

FEBRUARY 17, 2005

Mr. DORGAN (for himself and Mr. SHELBY) introduced the following bill;  
which was read twice and referred to the Committee on Finance

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## A BILL

To amend the Internal Revenue Code of 1986 to provide for a refundable wage differential credit for activated military reservists.

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 “Military Reserve Mobi-  
5 lization Income Security Act of 2005”.

6 **SEC. 2. REFUNDABLE CREDIT FOR ACTIVATED MILITARY**  
7 **RESERVISTS.**

8 (a) IN GENERAL.—Subpart C of part IV of sub-  
9 chapter A of chapter 1 of the Internal Revenue Code of  
10 1986 is amended by redesignating section 36 as section

1 37 and by inserting after section 35 the following new sec-  
 2 tion:

3 **“SEC. 36. WAGE DIFFERENTIAL FOR ACTIVATED RESERV-**  
 4 **ISTS.**

5 “(a) IN GENERAL.—In the case of a qualified reserv-  
 6 ist, there shall be allowed as a credit against the tax im-  
 7 posed by this subtitle an amount equal to the qualified  
 8 active duty wage differential of such qualified reservist for  
 9 the taxable year.

10 “(b) QUALIFIED ACTIVE DUTY WAGE DIFFEREN-  
 11 TIAL.—For purposes of this section—

12 “(1) IN GENERAL.—The term ‘qualified active  
 13 duty wage differential’ means the daily wage dif-  
 14 ferential of the qualified active duty reservist multi-  
 15 plied by the number of days such qualified reservist  
 16 participates in qualified reserve component duty dur-  
 17 ing the taxable year, including time spent in a travel  
 18 status.

19 “(2) DAILY WAGE DIFFERENTIAL.—The daily  
 20 wage differential is an amount equal to the lesser  
 21 of—

22 “(A) the excess of—

23 “(i) the qualified reservist’s average  
 24 daily qualified compensation, over

1           “(ii) the qualified reservist’s average  
 2           daily military pay while participating in  
 3           qualified reserve component duty to the ex-  
 4           clusion of the qualified reservist’s normal  
 5           employment duties, or

6           “(B) \$54.80.

7           “(3) AVERAGE DAILY QUALIFIED COMPENSA-  
 8           TION.—

9           “(A) IN GENERAL.—The term ‘average  
 10          daily qualified compensation’ means—

11           “(i) the qualified compensation of the  
 12           qualified reservist for the one-year period  
 13           ending on the day before the date the  
 14           qualified reservist begins qualified reserve  
 15           component duty, divided by

16           “(ii) 365.

17           “(B) QUALIFIED COMPENSATION.—The  
 18          term ‘qualified compensation’ means—

19           “(i) compensation which is normally  
 20           contingent on the qualified reservist’s pres-  
 21           ence for work and which would be includ-  
 22           ible in gross income, and

23           “(ii) compensation which is not char-  
 24           acterized by the qualified reservist’s em-  
 25           ployer as vacation or holiday pay, or as

1 sick leave or pay, or as any other form of  
2 pay for a nonspecific leave of absence.

3 “(4) AVERAGE DAILY MILITARY PAY AND AL-  
4 LOWANCES.—

5 “(A) IN GENERAL.—The term ‘average  
6 daily military pay and allowances’ means—

7 “(i) the amount paid to the qualified  
8 reservist during the taxable year as mili-  
9 tary pay and allowances on account of the  
10 qualified reservist’s participation in quali-  
11 fied reserve component duty, determined as  
12 of the date the qualified reservist begins  
13 qualified reserve component duty, divided  
14 by

15 “(ii) the total number of days the  
16 qualified reservist participates in qualified  
17 reserve component duty during the taxable  
18 year, including time spent in travel status.

19 “(B) MILITARY PAY AND ALLOWANCES.—  
20 The term ‘military pay’ means pay as that term  
21 is defined in section 101(21) of title 37, United  
22 States Code, and the term ‘allowances’ means  
23 the allowances payable to a member of the  
24 Armed Forces of the United States under chap-  
25 ter 7 of that title.

1           “(5) QUALIFIED RESERVE COMPONENT  
2 DUTY.—The term ‘qualified reserve component duty’  
3 means—

4           “(A) active duty performed, as designated  
5 in the reservist’s military orders, in support of  
6 a contingency operation as defined in section  
7 101(a)(13) of title 10, United States Code, or

8           “(B) full-time National Guard duty (as de-  
9 fined in section 101(19) of title 32, United  
10 States Code) which is ordered pursuant to a re-  
11 quest by the President, for a period under 1 or  
12 more orders described in subparagraph (A) or  
13 (B) of more than 90 consecutive days.

14       “(c) QUALIFIED RESERVIST.—For purposes of this  
15 section—

16       “(1) IN GENERAL.—The term ‘qualified reserv-  
17 ist’ means an individual who is engaged in normal  
18 employment and is a member of—

19           “(A) the National Guard (as defined by  
20 section 101(c)(1) of title 10, United States  
21 Code), or

22           “(B) the Ready Reserve (as defined by sec-  
23 tion 10142 of title 10, United States Code).

24       “(2) NORMAL EMPLOYMENT.—The term ‘nor-  
25 mal employment duties’ includes self-employment.

1       “(d) DISALLOWANCE WITH RESPECT TO PERSONS  
 2 ORDERED TO ACTIVE DUTY FOR TRAINING.—No credit  
 3 shall be allowed under subsection (a) to a qualified reserv-  
 4 ist who is called or ordered to active duty for any of the  
 5 following types of duty:

6           “(1) Active duty for training under any provi-  
 7 sion of title 10, United States Code.

8           “(2) Training at encampments, maneuvers, out-  
 9 door target practice, or other exercises under chap-  
 10 ter 5 of title 32, United States Code.

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

13       “(e) CREDIT INCLUDED IN GROSS INCOME.—Gross  
 14 income includes the amount of the credit allowed the tax-  
 15 payer under this section.”.

16       (b) CONFORMING AMENDMENTS.—

17           (1) Paragraph (2) of section 1324(b) of title  
 18 31, United States Code, is amended by inserting be-  
 19 fore the period “, or from section 36 of such Code”.

20           (2) The table of sections for subpart C of part  
 21 IV of chapter 1 of the Internal Revenue Code of  
 22 1986 is amended by striking the last item and in-  
 23 serting the following new items:

“Sec. 36. Wage differential for activated reservists.  
 “Sec. 37. Overpayments of tax.”.

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

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