

112TH CONGRESS
1ST SESSION

S. 387

To amend title 37, United States Code, to provide flexible spending arrangements for members of the uniformed services, and for other purposes.

IN THE SENATE OF THE UNITED STATES

FEBRUARY 17, 2011

Mrs. BOXER (for herself, Mr. BURR, and Mrs. GILLIBRAND) introduced the following bill; which was read twice and referred to the Committee on Armed Services

A BILL

To amend title 37, United States Code, to provide flexible spending arrangements for members of the uniformed services, and for other purposes.

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. FLEXIBLE SPENDING ARRANGEMENTS FOR**
4 **THE UNIFORMED SERVICES.**

5 (a) FLEXIBLE SPENDING ARRANGEMENTS.—

6 (1) IN GENERAL.—Chapter 3 of title 37, United
7 States Code, is amended by adding at the end the
8 following new section:

1 **“§ 213. Flexible spending arrangements**

2 “(a) FLEXIBLE SPENDING ARRANGEMENTS FOR THE
3 UNIFORMED SERVICES.—(1) Not later than 180 days
4 after the date of the enactment of this section, each Sec-
5 retary concerned shall establish procedures to implement
6 flexible spending arrangements with respect to basic pay
7 under section 204 of this title for health care and depend-
8 ent care on a pre-tax basis in accordance with regulations
9 prescribed under sections 106(c) and 125 of the Internal
10 Revenue Code of 1986.

11 “(2) In establishing the procedures required by para-
12 graph (1), each Secretary concerned shall consider life
13 events of members of the uniformed services that are
14 unique to them as members of the uniformed services, in-
15 cluding changes relating to permanent changes of duty
16 station and deployments to overseas contingency oper-
17 ations.

18 “(b) DEDUCTIONS NOT PROHIBITED FOR ENLISTED
19 MEMBERS.—Section 701(c) of this title, relating to as-
20 signment of the pay of an enlisted member, may not be
21 construed to prohibit or invalidate the arrangements au-
22 thorized by this section with respect to the pay or com-
23 pensation of an enlisted member.”.

24 (2) CLERICAL AMENDMENT.—The table of sec-
25 tions at the beginning of chapter 3 of such title is

1 amended by inserting after the item relating to sec-
2 tion 204 the following new item:

“213. Flexible spending arrangements.”.

3 (b) IMPLEMENTATION AND SOURCE OF FUNDS.—

4 (1) IMPLEMENTATION.—Each Secretary con-
5 cerned shall establish the procedures required by
6 section 213(a) of such title, as added by subsection
7 (a)(1), not later than 180 days after the date of the
8 enactment of this Act.

9 (2) SOURCE OF FUNDS.—To cover the cost of
10 establishing the procedures described in paragraph
11 (1), each Secretary concerned shall use funds other-
12 wise available for the operation of the Office of that
13 Secretary.

14 (3) SECRETARY CONCERNED DEFINED.—In this
15 subsection, the term “Secretary concerned” has the
16 meaning given such term in section 101 of such
17 title.

18 (c) REVIEW OF APPLICABILITY TO MEMBERS OF RE-
19 SERVE COMPONENTS OF THE UNIFORMED SERVICES.—

20 (1) IN GENERAL.—Not later than 180 days
21 after the date of the enactment of this Act, the Sec-
22 retary of Defense shall submit to the congressional
23 defense committees recommendations on the advis-
24 ability of authorizing flexible spending arrangements
25 as described in such section 213(a), for pay received

1 as a member of a reserve component of the uni-
2 formed services other than under section 204 of
3 such title.

4 (2) CONGRESSIONAL DEFENSE COMMITTEES
5 DEFINED.—In this subsection, the term “congres-
6 sional defense committees” has the meaning given
7 such term in section 101(a) of title 10, United
8 States Code.

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