

Calendar No. 166

106TH CONGRESS }
1st Session }

SENATE

{ REPORT
106-84

MILITARY RESERVISTS SMALL BUSINESS RELIEF ACT OF 1999

JUNE 23, 1999.—Ordered to be printed

Mr. BOND, from the Committee on Small Business,
submitted the following

REPORT

[To accompany S. 918]

On June 9, 1999, the Committee on Small Business considered S. 918. The Committee adopted a substitute amendment offered by the Ranking Democrat, John Kerry. As amended, the bill authorizes two types of financial assistance and encourages maximum use of the Small Business Administration's (SBA) existing entrepreneurial development programs for small businesses that have been adversely affected by the departure of an essential employee who is a military reservist ordered to active duty during a period of military conflict, such as the Kosovo conflict, after adopting Senator Kerry's amendment in the nature of a substitute. Having considered S. 918, as amended, the Committee reports favorably thereon without further amendment and recommends that the bill do pass.

I. DESCRIPTION OF THE BILL

The Military Reservists Small Business Relief Act of 1999 (S. 918) seeks to assist military reservists called to active duty and the small businesses that employ them. During and after the Persian Gulf War in the early 1990's, the Committee heard from reservists whose businesses were harmed, severely crippled, or even lost, by their absence. The House Committee on Small Business in March 1991 heard testimony from numerous veterans, including representatives of the National Guard and Reserve community, who owned small businesses prior to being called to active duty. They found the problems faced by reservists and their small businesses were of a varied nature and included cash-flow problems, difficul-

ties with training an appropriate alternate manager on very short notice to run the business during the period of service, lost clientele upon return, and on occasion, bankruptcy.

These hardships can occur during a period of national emergency or during a period of contingency operation when troops are deployed overseas. For example, in 1993, the National Guard in Missouri was deployed for two months to help with the devastating flood of the Missouri and Mississippi Rivers that left 14 miles of Missouri river-front land under water. While on active duty, two reservists, one with a successful hair salon and another with a painting business, lost so many of their clients they eventually had to close their small businesses. One of them resigned from the National Guard after that experience because he felt it had taken too big a toll on his life. In New England, a physician and Lieutenant Commander in the Navy Reserve, who had been in private medical practice for ten years, went bankrupt after six months while serving as a flight surgeon in the Persian Gulf War. The bankruptcy affected not only the reservist and his wife, but also his two employees and their families. After one year on duty, he returned home to face civilian life without a business or a job.

To help such reservists and their small businesses, the Committee seeks to provide credit and management assistance to small businesses when an essential employee (i.e., an owner, manager or vital member of the business' staff) is a reservist called to active duty. The Committee believes that the bill will help address some of the most common problems faced by small businesses. Financial assistance in the form of loans, loan deferrals and managerial guidance are effective ways to minimize the adverse financial demands of the call to active duty. They not only ameliorate financial difficulties but also strengthen small businesses. This helps remove many of the worries a reservist may face about the survivability of the business and the security of his or her future employment upon return to civilian life.

To meet these goals, the bill authorizes the SBA to provide loan deferrals and low-interest economic injury loans to small businesses adversely affected by the call-up of certain military reservists. It applies to Operation Allied Force or any other contingency operation occurring on or ending after March 24, 1999, the date President Clinton authorized calling reservists to active duty for Operation Allied Force. In addition, the bill applies to future contingency operations during periods of military conflict, any future period of war declared by Congress, or any future period of national emergency declared by either the Congress or the President. A small business will be eligible for such assistance if the reservist in question is an essential employee of the business; namely, if the reservist is an owner, manager or employee of the business whose managerial or technical expertise is critical to the successful day-to-day operations of the small business.

The bill authorizes a deferral of loan repayments on any SBA direct loan, including a disaster loan, for an eligible small business. Such a deferral will be effective until 180 days after the reservist is released or discharged from active duty. The bill also authorizes the SBA to reduce the interest rate on those direct loans.

With respect to direct microloans, the SBA is directed to encourage its microlenders (lending intermediaries) to offer similar deferrals to microborrowers whose essential employee is a reservist called to active duty. The Committee envisions the SBA will adjust the repayment terms of the microlender proportionate to the extent to which the microlender has deferred repayments from its small business borrowers adversely affected by a military call-up of reservists. The bill also directs the SBA to publish guidelines within 30 days of enactment of this legislation to help its lending partners in the 7(a) guaranteed business loan program and the 504 Development Company program develop procedures for providing loan repayment relief to small businesses that have been adversely affected by the departure of an essential employee to active military duty. The Committee recognizes that, depending upon the status of the loan and whether it has been sold by the lender in the secondary market, a deferral may be difficult or impossible to arrange. Nonetheless, in light of the reservist's call to service to our nation, the Committee urges lenders participating in the 7(a) and 504 loan programs to be as creative and generous as possible in assisting these small businesses during a time of military conflict and for a reasonable period after the reservist returns from service.

The bill also establishes a low-interest economic injury loan program to be administered by the SBA through its disaster loan program. These loans will be available to provide interim operating capital to a small business that suffers substantial economic injury as a result of the departure of its essential employee to active duty and cannot obtain credit elsewhere. "Essential employee" is given the same meaning as in the deferral section of the bill. Under the bill, substantial economic injury occurs when the small business cannot pay its debts or ordinary operating expenses or is likely to be unable to market, produce or provide a product or service that it ordinarily markets, produces or provides. The interest rates on these loans will be calculated in the same manner as other economic injury disaster loans but will in no case exceed four percent per annum. An affected small business may apply for a loan under this authority from the date that the military reservist is ordered to active duty until 90 days after his or her release from active duty.

To address the management needs of any small business whose owner or manager must depart suddenly to report to active duty, this bill relies on the existing entrepreneurial development programs of the SBA. They are well-suited to counsel and train prospective managers and are located in each state. Often, however, small businesses are not aware these services exist and are available at little or no cost. This bill directs the SBA and its private-sector partners to advertise their entrepreneurial development and 54 management assistance programs, such as Business Information Centers, Women's Business Centers, Small Business Development Centers and SCORE (Service Corps of Retired Executives), and to make them available to small businesses that are losing or have lost an essential employee to a military call-up. Such outreach should continue so long as Operation Allied Force continues and for 120 days thereafter. The Committee expects the SBA will actively implement this responsibility and will work with the Department

of Defense to identify and notify the active-duty reservists whose businesses or small business employers would benefit from these counseling and training programs.

The bill also directs the SBA Administrator, within 30 days of enactment of this legislation, to publish any guidelines deemed necessary to implement the legislation. Although this is a very tight time frame, the Committee believes that prompt implementation is necessary to address the needs of small businesses whose essential employees are already, or are soon to be, serving on active duty in Operation Allied Force.

II. COMMITTEE VOTE

In compliance with rule XXVI(7)(b) of the Standing Rules of the Senate, the following votes were recorded on June 9, 1999. A motion by Senator Kerry to adopt the substitute amendment passed by unanimous voice vote. A motion by Senator Bond to adopt the Military Reservists Small Business Relief Act of 1999, with an amendment in the nature of a substitute, was approved by a unanimous 17–0 recorded vote, with the following Senators voting in the affirmative: Bond, Kerry, Burns, Coverdell, Bennett, Snowe, Enzi, Fitzgerald, Crapo, Abraham, Levin, Harkin, Lieberman, Wellstone, Cleland, Landrieu and Edwards.

III. COST ESTIMATE

In compliance with rule XXVI(11)(a)(1) of the Standing Rules of the Senate, the Committee estimates the cost of the legislation will be equal to the amounts indicated by the Congressional Budget Office in the following letter.

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, June 16, 1999.

Hon. CHRISTOPHER S. BOND,
Chairman, Committee on Small Business,
U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for S. 918, the Military Reservists Small Business Relief Act of 1999.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contacts are Megan Carroll and Mark Hadley.

Sincerely,

BARRY B. ANDERSON
(For Dan L. Crippen, Director).

Enclosure.

S. 918—Military Reservists Small Business Relief Act of 1999

Implementing S. 918 would probably increase discretionary spending over the 2000–2004 period by an average of less than \$500,000 a year. CBO also estimates that enacting the bill would increase direct spending by about \$1 million in fiscal year 1999; therefore, pay-as-you-go procedures would apply. S. 918 contains no intergovernmental or private-sector mandates as defined in the Un-

funded Mandates Reform Act and would not affect the budgets of state, local, or tribal governments.

S. 918 would authorize the Small Business Administration (SBA) to modify and expand certain loan programs. Section 2 would allow the SBA to defer principal and interest payments due on small business loans if a military reservist is called to active duty during a period of military conflict and the reservist is an essential employee of the small business. The deferral would last from the date on which the reservist is ordered to active duty until 180 days after the reservist is released. Section 2 also would allow the SBA to reduce the interest rate for loans qualifying for a deferral. In addition, S. 918 would encourage lenders and intermediaries to grant similar deferrals for loans guaranteed by the SBA. Finally, section 3 would expand the disaster loan program to include small businesses that suffer substantial economic injury as a result of an essential employee being ordered to active duty during a period of military conflict.

The Federal Credit Reform Act of 1990 requires appropriation for the subsidy costs and administrative costs of credit programs. The subsidy cost is the estimated long-term cost to the government of a direct loan or loan guarantee, calculated on a net present value basis and excluding administrative costs. Implementing sections 2 and 3 of the bill could result in additional subsidy costs for making new loans. Any such costs would be subject to appropriation of the necessary amounts. Although CBO cannot predict the number, timing, or extent of future military conflicts or the number of small businesses that would be affected, the costs are not likely to be significant in most years. We estimate that additional subsidy costs would average less than \$500,000 a year.

Section 2 would also increase direct spending because it would raise the expected cost of existing loans to small businesses. According to OMB's Circular A-11, Preparation and Submission of Budget Estimates: "If the modification is mandated in legislation, the legislation itself provides the budget authority to incur the subsidy cost obligation (whether explicitly stated or not)." CBO estimates that enacting this provision would probably increase direct spending by about \$1 million, based on information from the SBA. We estimate that the deferral provision would affect fewer than 500 small business disaster loans (out of the 70,000 outstanding), with an average loan size of \$50,000, and that the deferment of principal and interest payments would increase the average subsidy costs on those loans by about 5 percentage points. The increase in subsidy costs would be recorded as an outlay in the year in which the legislation is enacted. For the purposes of this estimate, CBO assumes that S. 918 will be enacted during fiscal year 1999.

The CBO staff contacts for this estimate are Megan Carroll and Mark Hadley. This estimate was approved by Robert A. Sunshine, Deputy Assistant Director for Budget Analysis.

IV. EVALUATION OR REGULATORY IMPACT

In compliance with rule XXVI(11)(b) of the Standing Rules of the Senate, it is the opinion of the Committee that no significant additional regulatory impact will be incurred in carrying out the provi-

sions of this legislation. There will be no additional impact on the personal privacy of companies or individuals who utilize the assistance authorized by this legislation.

V. CHANGES IN EXISTING LAW

In the opinion of the Committee, it is necessary to dispense with the requirement of rule XXVI(12) of the Standing Rules of the Senate in order to expedite the business of the Senate.

VI. SECTION-BY-SECTION ANALYSIS

Section 1. Short Title. This section states the short title of the bill is the “Military Reservists Small Business Relief Act of 1999.”

Section 2. Repayment Deferral for Active Duty Reservists. To be eligible, a small business must have at least one essential employee who is a military reservist called to serve on active military duty during a period of military conflict. An “essential employee” is one who is an owner, a manager or employee who is responsible for the performance of the business on a day-to-day basis.

A “period of military conflict” is defined as a period of war declared by Congress, a period of national emergency declared by Congress or the President, or a period of a contingency operation under title 10 of the United States Code, section 101(a). The current conflict in Kosovo is considered a contingency operation under that section.

The period of deferral for direct loans commences on the date the essential employee is ordered to active duty and ends 180 days after the essential employee is discharged or released from active duty. During the period of deferral, the SBA may also reduce the interest rate on the deferred loan.

With respect to the SBA’s microloan program under section 7(m) of the Small Business Act, this section directs the SBA to encourage microlenders to make similar deferrals for their microborrowers whose essential employee is called to active duty in a military conflict such as that in Kosovo. This section also directs the SBA to encourage lenders participating in the SBA’s 7(a) guaranteed loan program and section 504 development company program to offer similar deferrals to their small business borrowers whose essential employee is ordered to active duty. Finally, this section directs the SBA to publish guidelines implementing the deferral provision for microloans, 7(a) guaranteed loans and 504 development company loans within 30 days of enactment of the bill.

Section 3. Disaster Loan Assistance for Military Reservists’ Small Businesses. This section amends subsection 7(b) of the Small Business Act (15 U.S.C. 636(b)) to authorize the SBA to make a low-interest disaster loan to any small business that suffers substantial economic injury because its essential employee is a military reservist called to active duty during the Kosovo conflict or any similar period of military conflict. The interest rate will be set using the same formula the SBA uses for other economic injury disaster loans. The cap on all disaster loan assistance is \$1.5 million, the same as for other types of disaster loans. One notable difference between this economic injury disaster loan and others is the absence of a disaster declaration requirement.

This section adopts the same definitions as section 2 and defines “substantial economic injury” as economic harm to a business that results in its inability to meet its obligations, to pay its ordinary and necessary operating expenses, or to market, produce, or provide a product or service that it ordinarily markets, produces or provides. Eligible small businesses may apply for this assistance during the period beginning on the date the reservist is ordered to active duty and ending 90 days from the reservist’s release or discharge from active duty.

Section 4. Business Development and Management Assistance for Military Reservists’ Small Businesses. This section amends section 8 of the Small Business Act (15 U.S.C. 637) by adding a new subsection (l) that directs the SBA, together with its private-sector partners, to make its entrepreneurial development and management assistance programs, such as the Business Information Centers, Women’s Business Centers, Small Business Development Centers and SCORE (Service Corps of Retired Executives), available to provide business counseling and training to any small business adversely affected by the deployment of troops, either active duty or reservists, in support of any current or future period of military conflict. This section also directs that during Operation Allied Force and for 120 days thereafter, the SBA shall actively promote the assistance it offers to help small businesses adversely affected by the deployment of troops, including publicity with respect to loan deferrals and economic injury loans authorized under this legislation and its entrepreneurial development programs.

Section 5. Guidelines. This section directs the SBA Administrator to issue such guidelines as are necessary to implement this legislation within 30 days of the date of enactment.

Section 6. Effective Dates. Except for economic injury loans under section 3, the effective dates of these provisions shall be the date of enactment of the legislation. For loans under section 3, the eligible borrower must have suffered substantial economic injury during a period of military conflict occurring or ending on or after March 24, 1999.