

104TH CONGRESS
2D SESSION

H. R. 2963

To amend subchapter III of chapter 13 of title 31, United States Code (popularly known as the Anti-Deficiency Act), to allow the United States to enter into contracts or obligations during a lapse in appropriations if the President determines that a sufficient appropriation is likely to be made for that purpose before the end of the fiscal year, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 6, 1996

Mrs. MEEK of Florida (for herself, Mr. DAVIS, Mr. HOYER, Mr. MORAN, Ms. NORTON, and Mr. WYNN) introduced the following bill; which was referred to the Committee on Government Reform and Oversight

A BILL

To amend subchapter III of chapter 13 of title 31, United States Code (popularly known as the Anti-Deficiency Act), to allow the United States to enter into contracts or obligations during a lapse in appropriations if the President determines that a sufficient appropriation is likely to be made for that purpose before the end of the fiscal year, 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,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Keep the Government
3 Open Act of 1996”.

4 **SEC. 2. FINDINGS.**

5 Congress finds that:

6 (1) According to the General Accounting Office,
7 between fiscal year 1962 and fiscal year 1981 there
8 were 32 times when there was a lapse in appropria-
9 tions for part of the Federal Government because
10 there had not been enacted either an appropriations
11 law or a continuing resolution. During these lapses
12 in appropriations Federal employees continued to
13 work, and the Federal Government continued to ob-
14 ligate funds. Congress then ratified the obligations
15 incurred during the lapse in appropriations.

16 (2) In January 1981, Attorney General Civiletti
17 expressed the opinion that the Anti-Deficiency Act
18 prohibits the operation of the Federal Government
19 during a period of lapsed appropriations except for
20 those emergency situations involving the safety of
21 human life or the protection of property.

22 (3) In 1990, Congress amended the Anti-Defi-
23 ciency Act to limit the definition of emergencies so
24 as to exclude “ongoing, regular functions of govern-
25 ment the suspension of which would not imminently

1 threaten the safety of human life or the protection
2 of property.”.

3 (4) Between 1982 and 1994 the longest lapse
4 in appropriations was 3 days.

5 (5) Between December 16, 1995, and January
6 5, 1996, there was a lapse in appropriations for part
7 of the Federal Government because of a disagree-
8 ment between the President and the Congress. Dur-
9 ing this 3-week period, 476,000 Federal employees
10 came to work but were not paid, and 285,000 Fed-
11 eral employees were ordered not to come to work.
12 On January 5, Congress passed a continuing resolu-
13 tion which paid these 761,000 employees for the pe-
14 riod December 16 through January 5, and the
15 President signed this resolution.

16 (6) Paying these 285,000 Federal employees for
17 not working for 3 weeks wasted about
18 \$1,000,000,000 of the taxpayers' money.

19 (7) Not paying Federal employees during a
20 lapse in appropriations imposes serious financial
21 hardships on many of these employees.

22 (8) Not paying Federal employees during a
23 lapse in appropriations imposes serious hardships on
24 private firms that normally sell to Federal employ-
25 ees.

1 (9) Prohibiting the obligation of Federal funds
2 during a lapse of appropriations imposes serious
3 hardships on State and local governments and pri-
4 vate firms that normally receive Federal funds.

5 (10) Prohibiting Federal employees from work-
6 ing imposes serious hardships on citizens who need
7 the services provided by these employees.

8 **SEC. 3. AMENDMENT OF THE ANTI-DEFICIENCY ACT.**

9 (a) **AUTHORITY TO ENTER INTO CONTRACTS OR OB-**
10 **LIGATIONS.**—Section 1341(a)(1)(B) of title 31, United
11 States Code, is amended by adding before the period at
12 the end the following: “or unless the President determines
13 that an appropriation is likely to be made for that purpose
14 before the end of the fiscal year in an amount exceeding
15 the contract or obligation”.

16 (b) **WORK AND PAYMENT OF EMPLOYEES.**—(1) Sec-
17 tion 1342 of title 31, United States Code, is amended by
18 adding at the end the following new sentence: “However,
19 an officer or employee of the United States Government
20 may continue to supply personal services before an appro-
21 priation or continuing resolution is enacted and shall be
22 paid for such services even if no appropriation is enacted
23 if the President determines that an appropriation is likely
24 to be made for that purpose before the end of the fiscal

1 year in an amount exceeding the cost to the Government
2 of such services.”.

3 (2)(A) For any day during a fiscal year on which
4 funds are not available to pay the salary of any official
5 or employee of the United States for which funds were
6 available on the last day of the fiscal year preceding such
7 fiscal year, there are appropriated such sums as may be
8 necessary to maintain such salary at the level of such sal-
9 ary on the last day of the fiscal year preceding the fiscal
10 year during which funds are not available for such pur-
11 pose.

12 (B) Funds appropriated by this paragraph shall not
13 be available for any day during a fiscal year which occurs
14 after the date of the enactment during such fiscal year
15 of an Act or joint resolution which includes appropriations
16 generally for the department or agency which has the re-
17 sponsibility for paying such salary and which makes no
18 appropriation for such salary.

19 (C) Appropriations and funds made available under
20 this paragraph shall cover all objections or expenditures
21 incurred to pay the salary of any official or employee of
22 the United States during the period for which funds for
23 such salary are made available under this paragraph.

24 (D) Any expenditure made under the appropriation
25 contained in this paragraph shall be charged to the appro-

1 priation, fund, or authorization which includes funds for
2 such expenditure whenever a bill or joint resolution in
3 which such appropriation, fund, or authorization is pro-
4 vided for is enacted into law.

5 (E) For purposes of this paragraph, the term “sal-
6 ary” includes any benefits paid to or for an official or em-
7 ployee of the United States because of such employment
8 of the official or employee (including medical and dental
9 benefits, life and health insurance premiums, and pension
10 contributions) and any pay and allowances of members of
11 the Armed Forces.

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