

104<sup>TH</sup> CONGRESS  
1<sup>ST</sup> SESSION

# S. 1183

To amend the Act of March 3, 1931 (known as the Davis-Bacon Act),  
to revise the standards for coverage under the Act, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

AUGUST 11 (legislative day, JULY 10), 1995

Mr. HATFIELD (for himself, Mr. PACKWOOD, Mr. D'AMATO, Mr. CAMPBELL,  
Mr. SPECTER, Mr. SANTORUM, and Mr. STEVENS) introduced the follow-  
ing bill; which was read twice and referred to the Committee on Labor  
and Human Resources

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## A BILL

To amend the Act of March 3, 1931 (known as the Davis-  
Bacon Act), to revise the standards for coverage under  
the Act, 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. SHORT TITLE.**

4 This Act may be cited as the “Davis-Bacon Act Re-  
5 form Amendments of 1995”.

6 **SEC. 2. AMENDMENTS TO THE DAVIS-BACON ACT.**

7 (a) CONTRACT REQUIREMENTS.—Section 1 of the  
8 Act of March 3, 1931 (commonly referred to as the

1 “Davis-Bacon Act”) (40 U.S.C. 276a et seq.) is amended  
2 to read as follows:

3 **“SECTION 1. CONTRACT REQUIREMENTS.**

4 “(a) REQUIRED PROVISIONS.—

5 “(1) IN GENERAL.—A contract described in  
6 subsection (b) that requires or involves the employ-  
7 ment of mechanics or laborers shall contain a provi-  
8 sion—

9 “(A) stating the minimum wages to be  
10 paid various classes of laborers and mechanics  
11 that shall be based upon the wages that will be  
12 determined by the Secretary of Labor to be pre-  
13 vailing for the corresponding classes of laborers  
14 and mechanics employed on projects of a char-  
15 acter similar to the contract work in the locality  
16 where the work is to be performed;

17 “(B) which stipulates that the contractor  
18 or subcontractor under the contract shall pay  
19 all laborers and mechanics under the contract—

20 “(i) unconditionally;

21 “(ii) not less often than once a week;

22 and

23 “(iii) without subsequent deduction or  
24 rebate on any account;

1           “(C) which stipulates that the require-  
2           ments of subparagraph (A) shall apply to—

3                   “(i) laborers and mechanics employed  
4                   by the contractor or subcontractor to work  
5                   directly upon the site of the work, includ-  
6                   ing work at fabrication plants, batch  
7                   plants, tool yards, rock pits, or similar fa-  
8                   cilities (other than facilities established by  
9                   a contractor or subcontractor whose loca-  
10                  tion and continuance in operation are de-  
11                  termined wholly without regard to any par-  
12                  ticular contract work) that are not located  
13                  on the project site, but the principal pur-  
14                  pose of such work is to provide construc-  
15                  tion materials for the project; and

16                   “(ii) laborers and mechanics employed  
17                   by a contractor or subcontractor (otherwise  
18                   covered by this Act) to transport debris,  
19                   materials, supplies, and equipment to or  
20                   from the site of the work (as described  
21                   herein); and

22                  “(D) which stipulates that, after written  
23                  notice to the contractor, there may be withheld  
24                  from the contractor under the contract or any  
25                  contract between the same contractor and the

1 United States or the District of Columbia or  
2 under any federally assisted contract subject to  
3 the prevailing wage requirements of this Act so  
4 much of accrued payments as may be consid-  
5 ered necessary by the contracting officer or by  
6 the Secretary of Labor to pay to laborers and  
7 mechanics employed by such contractor or any  
8 subcontractor on the work the difference be-  
9 tween the rates of wages required by such con-  
10 tract to be paid laborers and mechanics on the  
11 work and the rates of wages received by such  
12 laborers and mechanics and not refunded to  
13 such contractor, subcontractor, or the agents of  
14 such contractor or subcontractor.

15 Funds described in subparagraph (D) shall be  
16 placed in an interest bearing account until the dis-  
17 position of the funds is administratively or judicially  
18 resolved.

19 “(2) POSTING.—A contractor or subcontractor  
20 under a contract described in subsection (b) shall  
21 post the scale of wages required to be paid under  
22 such contract in a prominent and easily accessible  
23 place at the site of the contract work.

24 “(b) COVERED CONTRACTS.—

1           “(1) IN GENERAL.—The requirements of this  
2 section shall apply to—

3           “(A) any contract in excess of \$100,000 to  
4 which the United States or the District of Co-  
5 lumbia is a party for the performance of new  
6 construction, including painting and decorating,  
7 of public buildings or public works of the Unit-  
8 ed States or the District of Columbia within the  
9 geographic limits of the States or the District  
10 of Columbia; and

11           “(B) any contract in excess of \$25,000 to  
12 which the United States or the District of Co-  
13 lumbia is a party for the performance of repair,  
14 rehabilitation, reconstruction, or alteration, in-  
15 cluding painting and decorating, of public build-  
16 ings or public works of the United States or the  
17 District of Columbia within the geographical  
18 limits of the States or the District of Columbia.

19           “(2) LEASES OF REAL PROPERTY.—If the Unit-  
20 ed States or the District of Columbia has entered  
21 into a contract to lease a building or work, or por-  
22 tion thereof, and if performance of a contract for the  
23 construction, alteration, repair, rehabilitation, ren-  
24 ovation, or reconstruction of the building or work, or  
25 portion thereof, subject to the lease is required for

1 fulfillment of the contract to lease, the contract for  
2 the construction, alteration, repair, rehabilitation,  
3 renovation, or reconstruction of the facility shall be  
4 subject to subsection (a) if the contract meets the  
5 requirements of paragraph (1).

6 “(3) FEDERALLY ASSISTED.—The requirements  
7 of this Act (including the requirements of paragraph  
8 (1)) shall apply to any project for the construction,  
9 rehabilitation, reconstruction, alteration or repair,  
10 including painting and decorating, of buildings or  
11 works that are financed in whole or in part by loans,  
12 grants, revolving funds, or other assistance from the  
13 United States pursuant to a statute that—

14 “(A) is enacted after the effective date of  
15 this Act unless exempt or otherwise limited by  
16 Federal law; or

17 “(B) contains a provision requiring the  
18 payment of prevailing wages as determined by  
19 the Secretary of Labor pursuant to this Act.

20 “(4) ADJUSTMENTS FOR CHANGES IN DOLLAR  
21 VALUES.—Beginning with the fiscal year 1995 and  
22 every 5 years thereafter, the amounts of the thresh-  
23 olds set forth in paragraph (1) shall be adjusted by  
24 the Secretary of Labor to the amount that is equal  
25 to the fiscal year 1995 constant dollar value of such

1 amount. Any amount, as so adjusted, shall be round-  
2 ed to the nearest \$1,000. The adjusted threshold  
3 shall be effective upon publication in the Federal  
4 Register to contracts for which bids are solicited or  
5 negotiations concluded after such publication.

6 “(5) PROHIBITION ON SPLITTING CONTRACTS;  
7 WAGES BASED ON CONTRACT OPTION.—

8 “(A) SPLITTING CONTRACTS.—No project  
9 that would, if procured under a single contract,  
10 be subject to the requirements of this Act may  
11 be divided into multiple contracts of lesser value  
12 to avoid the application of this Act.

13 “(B) WAGES BASED ON CONTRACT OP-  
14 TION.—A contract—

15 “(i) under which work is performed  
16 over a period of time beyond that period  
17 set forth in the original contract because of  
18 the exercise of an option provision con-  
19 tained in such contract (as opposed to  
20 cases in which a contractor is given an ex-  
21 tension of time in which to complete its  
22 original contractual commitment); and

23 “(ii) that exceeds the applicable  
24 threshold set forth in paragraph (1),

1 shall include the wages determined by the Sec-  
2 retary of Labor at the commencement of such  
3 work to be prevailing for the corresponding  
4 classes of laborers and mechanics employed on  
5 projects of a character similar to such work in  
6 the locality where such work is to be performed,  
7 or in the District of Columbia if such work is  
8 to be performed there.

9 “(6) PREEMPTION.—Neither the requirements  
10 of subsection (a) nor the provisions of any other  
11 Federal law or regulation related to prevailing wages  
12 shall, solely by reason of such prevailing wage provi-  
13 sions preempt the application of requirements for  
14 the payment of wages or fringe benefits or both  
15 adopted by State, local, or tribal governments other-  
16 wise applicable to contracts for the construction, re-  
17 habilitation or reconstruction, repair or alteration,  
18 including painting and decorating, of buildings and  
19 works financed in whole or in part by loans, grants,  
20 revolving funds, or other assistance from the United  
21 States, unless compliance with such requirement  
22 would make it impossible to comply with the require-  
23 ments of subsection (a).

24 “(c) APPRENTICES, TRAINEES, AND HELPERS.—



1           “(1) APPRENTICES.—An apprentice who is em-  
2           ployed under a contract subject to subsection (a)  
3           may be paid less than the rate required by such sub-  
4           section if the apprentice is—

5                   “(A) employed pursuant to, and individ-  
6                   ually registered in, a bona fide apprenticeship  
7                   program registered with the Bureau of Appren-  
8                   ticeship and Training of the Department of  
9                   Labor or with a State apprenticeship agency  
10                  recognized by the Bureau; or

11                   “(B) employed in the apprentice’s first 90  
12                  days of probationary employment as an appren-  
13                  tice in such an apprenticeship program de-  
14                  scribed in subparagraph (A) and is not individ-  
15                  ually registered in the program but has been  
16                  certified by the Bureau of Apprenticeship and  
17                  Training or a State apprenticeship agency  
18                  (where appropriate) to be eligible for probat-  
19                  ary employment as an apprentice.

20           “(2) TRAINEES.—A trainee who is employed  
21           under a contract subject to subsection (a) may be  
22           paid less than the rate required by such subsection  
23           if the trainee is employed pursuant to, and individ-  
24           ually registered in, a program that has received  
25           prior approval which is evidenced by formal certifi-

1 cation by the Bureau of Apprenticeship and Train-  
2 ing of the Department of Labor.

3 “(3) HELPERS.—A helper who is employed  
4 under a contract subject to subsection (a) may be  
5 paid less than the rate required by such subsection  
6 if—

7 “(A) the helper is employed in a classifica-  
8 tion of helpers the use of which prevails in the  
9 area in which the helper is employed;

10 “(B) the scope of the duties of the helper  
11 is defined and is separate and distinct from the  
12 duties of either a laborer or a mechanic; and

13 “(C) the helper is not used as an informal  
14 apprentice or trainee.

15 “(4) WAGE RATES.—Notwithstanding any other  
16 provision of law, no apprentice or trainee will be per-  
17 mitted to work under a contract subject to sub-  
18 section (a) at less than the prevailing wage rate un-  
19 less such apprentice or trainee is registered in a pro-  
20 gram described in paragraph (1) or (2).

21 “(d) WAGES.—

22 “(1) DEFINITION.—As used in this Act the  
23 terms ‘wages’, ‘scale of wages’, ‘wage rates’, ‘mini-  
24 mum wages’, and ‘prevailing wages’ shall include—

25 “(A) the basic hourly rate of pay; and

1 “(B) the amount of—

2 “(i) the rate of contribution irrev-  
3 ocably made by a contractor or subcontrac-  
4 tor to a trustee or to a third person pursu-  
5 ant to a fund, plan, or program; and

6 “(ii) the rate of costs to the contrac-  
7 tor or subcontractor which may be reason-  
8 ably anticipated in providing benefits to la-  
9 borers and mechanics pursuant to an en-  
10 forceable commitment to carry out a finan-  
11 cially responsible plan or program that was  
12 communicated in writing to the laborers  
13 and mechanics affected,

14 for medical or hospital care, pensions on retire-  
15 ment or death, compensation for injuries or ill-  
16 ness resulting from occupational activity, or in-  
17 surance to provide any of the foregoing, for un-  
18 employment benefits, life insurance, disability  
19 and sickness insurance, or accident insurance,  
20 for vacation and holiday pay, for defraying  
21 costs of apprenticeship or other similar pro-  
22 grams, or for other bona fide fringe benefits,  
23 but only where the contractor or subcontractor  
24 is not required by other Federal, State, or local  
25 law to provide any of such benefits,

1       except that the obligation of a contractor or sub-  
2       contractor to make payment in accordance with the  
3       prevailing wage determinations of the Secretary of  
4       Labor, insofar as this Act and other Acts incorporat-  
5       ing this Act by reference are concerned may be dis-  
6       charged by the making of payments in cash, by the  
7       making of contributions of a type referred to in sub-  
8       paragraph (B)(i), or by the assumption of an en-  
9       forceable commitment to bear the costs of a plan or  
10      program of a type referred to in subparagraph  
11      (B)(ii), or any combination thereof, where the aggre-  
12      gate of any such payments, contributions, and costs  
13      is not less than the rate of pay described in subpara-  
14      graph (A) plus the amount referred to in subpara-  
15      graph (B).

16           “(2) OVERTIME.—In determining the overtime  
17      pay to which the laborer or mechanic is entitled  
18      under any Federal law, the regular or basic hourly  
19      rate of pay of the laborer or mechanic (or other al-  
20      ternative rate upon which premium rate of overtime  
21      compensation is computed) shall be deemed to be the  
22      rate computed under subparagraph (A) of paragraph  
23      (1), except that where the amount of payments, con-  
24      tributions, or costs incurred with respect to the la-  
25      borer or mechanic exceeds the prevailing wage appli-

1 cable to the laborer or mechanic under this Act,  
2 such regular or basic hourly rate of pay (or such  
3 other alternative rate) shall be arrived at by deduct-  
4 ing from the amount of payments, contributions, or  
5 costs, actually incurred with respect to the laborer or  
6 mechanic, the amount of contributions or costs of  
7 the types described in subparagraph (B) of para-  
8 graph (1) actually incurred with respect to the la-  
9 borer or mechanic, or the amount determined under  
10 paragraph (B) of paragraph (1) but not actually  
11 paid, whichever amount is the greater.

12 “(3) WAGE PAYMENTS IN GENERAL.—Except  
13 as provided in paragraph (4), the obligation of a  
14 contractor or subcontractor to make wage payments  
15 in accordance with the prevailing wage determina-  
16 tions of the Secretary, insofar as this Act and other  
17 Acts incorporating this Act by reference are con-  
18 cerned, may be discharged by—

19 “(A) the making of payments in cash;

20 “(B) the making of contributions of a type  
21 referred to in paragraph (1)(B)(i);

22 “(C) the assumption of an enforceable  
23 commitment to bear the costs of a plan or pro-  
24 gram of a type referred to in paragraph  
25 (1)(B)(ii); or

1           “(D) any combination thereof.

2           “(4) CONTRIBUTIONS AND COSTS.—Unless oth-  
3           erwise provided in a bona fide collective bargaining  
4           agreement, in discharging the obligation to make  
5           wage payments to laborers and mechanics in accord-  
6           ance with the prevailing wage determinations of the  
7           Secretary of Labor, a contractor or subcontractor  
8           may only include contributions described in para-  
9           graph (1)(B)(i) and costs described in paragraph  
10          (1)(B)(ii) that do not exceed the aggregate of con-  
11          tributions and costs determined by the Secretary of  
12          Labor to be prevailing. Credit for contributions  
13          made to a fringe benefit plan shall be allowed only  
14          to the extent that such contributions are based on  
15          the effective annual rate of contributions for all  
16          hours worked during the calendar year by all the la-  
17          borers and mechanics covered by the plan.”.

18          (b) ENFORCEMENT.—Section 3 of the Act of March  
19          3, 1931 (commonly referred to as the “Davis-Bacon Act”)  
20          (40 U.S.C. 276a-2) is amended to read as follows:

21          **“SEC. 3. ENFORCEMENT.**

22                 “(a) ADMINISTRATIVE PROCEDURES.—

23                         “(1) PAYMENTS.—The Secretary of Labor is  
24                         authorized and directed to pay directly to laborers  
25                         and mechanics from any accrued payments withheld

1 under the contract described in section 1(b)(1) or  
2 any contract between the same contractor and the  
3 United States or the District of Columbia or under  
4 any federally assisted contract subject to the prevail-  
5 ing wage requirements of this Act any wages found  
6 to be due laborers and mechanics pursuant to this  
7 Act. Any sum not paid to a laborer or mechanic  
8 under this paragraph by the Secretary of Labor be-  
9 cause of inability to do so within 3 years shall be  
10 deposited into the miscellaneous receipts of the Unit-  
11 ed States Treasury. If the accrued payments with-  
12 held are insufficient to reimburse all the laborers  
13 and mechanics with respect to whom there has been  
14 a failure to pay the wages required by this Act, the  
15 Secretary of Labor or any laborer or mechanic or  
16 any organization authorized to represent such labor-  
17 ers or mechanics may, within 180 days of the con-  
18 clusion of all administrative proceedings, bring an  
19 action against the contractor and the contractor's  
20 sureties or other responsible parties for the payment  
21 of wages found due by the Secretary of Labor. In  
22 such an action, it shall be no defense that such la-  
23 borers and mechanics accepted or agreed to accept  
24 less than the required rate of wages or voluntarily  
25 made refunds. Any suit instituted under this para-

1 graph shall be brought in the United States district  
2 court for the district in which the contract was per-  
3 formed, where the contractor or subcontractor is  
4 currently doing business, or where the contractor or  
5 subcontractor maintains its payroll records, irrespec-  
6 tive of the amount in controversy in such suit. In  
7 such suits, the parties must conform to chapter 7  
8 of title 5, United States Code.

9 “(2) DEBARMENT.—The Secretary of Labor is  
10 authorized and directed to provide the names of per-  
11 sons or firms whom the Secretary has found to have  
12 disregarded their obligations to employees and sub-  
13 contractors or to a contractor, which has made res-  
14 titution for wage under payments by a subcontrac-  
15 tor, to the General Services Administration for inclu-  
16 sion in the Governmentwide List of Parties Excluded  
17 From Federal Procurement and Nonprocurement  
18 Programs. No contract shall be awarded to the per-  
19 sons or firms appearing on such list or to any firm,  
20 corporation, partnership, or association in which  
21 such persons or firms have an interest until—

22 “(A) 3 years have elapsed from the date  
23 the names of such persons or firms are entered  
24 on the electronic version of such list; or



1           “(B) in the case of a subcontractor that  
2           has failed to reimburse a contractor for pay-  
3           ments made as restitution for wages under pay-  
4           ments by such subcontractor, the contractor is  
5           fully reimbursed, including accrued interest.

6           “(3) AUTHORITY.—The Secretary of Labor  
7           shall prescribe standards, regulations, and proce-  
8           dures, in order to ensure coordination of administra-  
9           tion and consistency of enforcement of this Act, that  
10          shall be observed by the Federal agencies responsible  
11          for administration of contracts described in sub-  
12          section (b) of section 1. The Secretary of Labor and  
13          the Federal agencies awarding contracts or provid-  
14          ing financial assistance to projects are authorized to  
15          investigate compliance by any contractor or sub-  
16          contractor with the requirements of the Act, and  
17          may take such action to secure compliance with such  
18          requirements as may be appropriate. The Secretary  
19          of Labor shall have the power to issue orders requir-  
20          ing the attendance and testimony of witnesses and  
21          the production of evidence under oath. Witnesses  
22          shall be paid the same fees and mileage that are  
23          paid witnesses in the courts of the United States. In  
24          the case of contumacy, failure, or refusal of any per-  
25          son to obey the order issued under this paragraph,

1 any district court of the United States or of any ter-  
2 ritory or possession, within the jurisdiction of which  
3 the inquiry is carried on, or within the jurisdiction  
4 of which said person who is guilty of contumacy,  
5 failure, or refusal is found, or resides or transacts  
6 business, upon application by the petitioner, shall  
7 have jurisdiction to issue to such person an order re-  
8 quiring such person to appear before the Secretary  
9 of Labor or a representative designated by the Sec-  
10 retary of Labor, to produce evidence if, as, and when  
11 so, ordered, and to give testimony relating to the  
12 matter under investigation or in question, and any  
13 failure to obey such order of the court may be pun-  
14 ished by said court as a contempt thereof.

15 “(b) REVIEW PROCEDURES.—

16 “(1) ACTION BY THE SECRETARY.—The Sec-  
17 retary of Labor shall issue regulations providing pro-  
18 cedures for making determinations regarding the ap-  
19 plication of this Act to contracts.

20 “(2) COVERAGE REVIEW.—

21 “(A) IN GENERAL.—Any interested person,  
22 as defined in regulations issued by the Sec-  
23 retary of Labor, shall have the right to request  
24 the Secretary of Labor to make a determination  
25 regarding the applicability of the Act to a con-

1           tract. Such determination shall be binding upon  
2           the Federal agencies awarding contracts or pro-  
3           viding financial assistance and any recipient of  
4           financial assistance. If the Secretary of Labor  
5           notifies the contracting agency that the contract  
6           is subject to the Act, the contracting agency  
7           shall include in the contract the provisions re-  
8           quired by section 1, including any applicable  
9           wage determination issued by the Secretary of  
10          Labor or the authorized representative of the  
11          Secretary of Labor, through the exercise of any  
12          and all authority that may be needed (includ-  
13          ing, where necessary, its authority to negotiate  
14          or amend, its authority to pay any necessary  
15          additional costs, and its authority under any  
16          contract provision authorizing changes, can-  
17          cellation, and termination).

18                 “(B) REVIEW.—Any person adversely af-  
19                 fected or aggrieved by a determination by the  
20                 Secretary of Labor made on a petition filed  
21                 pursuant to subparagraph (A), may obtain re-  
22                 view of such determination in any United  
23                 States court of appeals for the circuit in which  
24                 such person is located, or in the United States  
25                 Court of Appeals for the District of Columbia,

1 by filing in such court within 60 days following  
2 issuance of such determination, a written peti-  
3 tion praying that such determination be modi-  
4 fied or set aside. A copy of such petition shall  
5 be forthwith transmitted by the clerk of the  
6 court in which it is filed to the Secretary of  
7 Labor and to other interested persons. Review  
8 shall conform to chapter 7 of title 5, United  
9 States Code.

10 “(c) ADMINISTRATIVE PETITION PROCEDURE.—

11 “(1) PETITION.—

12 “(A) IN GENERAL.—Notwithstanding any  
13 other provision of this Act, any laborer or me-  
14 chanic employed to perform work under a con-  
15 tract with the United States or the District of  
16 Columbia or any other contract described in  
17 section 1(b), or any organization authorized by  
18 such laborer or mechanic, may file a petition  
19 with the Secretary of Labor on behalf of such  
20 laborer or mechanic, as well as on behalf of all  
21 other similarly situated laborers and mechanics  
22 employed by the same employer pursuant to the  
23 same contract, for a hearing to determine if  
24 wage payments by such employer were made in  
25 accordance with section 1(a).

1           “(B) LIMITATION PERIOD.—The petition  
2 described in subparagraph (A) shall be filed in  
3 accordance with the limitations period set forth  
4 in section 6(b) of the Portal-to-Portal Act of  
5 1947 (29 U.S.C. 255(b)), except that such limi-  
6 tations period shall be tolled if compliance by  
7 the employer with the requirements of this Act  
8 is under investigation by the Secretary of  
9 Labor, or the application of this Act to such  
10 contract is being reviewed by the Secretary of  
11 Labor.

12           “(C) DEFENSE.—It shall be no defense  
13 that such laborers and mechanics accepted or  
14 agreed to accept less than the required rate of  
15 wages or fringe benefits, or voluntarily made re-  
16 funds or authorized deductions from their pay,  
17 unless otherwise permitted under the terms of  
18 this Act or applicable regulations issued by the  
19 Secretary of Labor.

20           “(2) REFERRAL TO THE CHIEF ADMINISTRA-  
21 TIVE LAW JUDGE.—The petition described in sub-  
22 paragraph (A) of paragraph (1) shall be referred to  
23 the Chief Administrative Law Judge of the Depart-  
24 ment of Labor for assignment to an Administrative  
25 Law Judge to make the determination requested by

1 the petition. No petition shall be referred to the  
2 Chief Administrative Law Judge under this section  
3 that concerns alleged underpayment of wages or  
4 fringe benefits that is already the subject of an ad-  
5 ministrative proceeding or judicial action initiated by  
6 the Secretary of Labor for such wages or fringe ben-  
7 efit payments pursuant to the authority of the Sec-  
8 retary of Labor under this Act.

9 “(3) HEARINGS.—

10 “(A) IN GENERAL.—The Administrative  
11 Law Judge shall conduct a hearing on the  
12 record in accordance with section 554 of title 5,  
13 United States Code, with respect to such peti-  
14 tion.

15 “(B) WITHHOLDING OF SUMS.—Upon de-  
16 termination by the Administrative Law Judge  
17 that a petitioner is likely to succeed on the mer-  
18 its of the claim of petitioner, the Administrative  
19 Law Judge shall notify the Secretary of Labor  
20 who shall direct the Secretary of the depart-  
21 ment or the head of the agency, or contracting  
22 authority which entered into the contract sub-  
23 ject to the requirements of section 1, to with-  
24 hold from any amounts payable on account of  
25 work performed by the contractor or sub-

1 contractor under such contract, any other con-  
2 tract described in section 1(b), or any other fed-  
3 erally funded or assisted contract the contractor  
4 or subcontractor may have with the same con-  
5 tractor, such sums as may be determined to be  
6 necessary to satisfy any liabilities of such con-  
7 tractor or subcontractor for unpaid wages and  
8 reasonable attorney's fees and costs as provided  
9 in section 3(c)(5)(B).

10 “(C) DETERMINATION OF APPLICABIL-  
11 ITY.—Any petition that requires a determina-  
12 tion of the applicability of the Act shall first be  
13 referred by the Administrative Law Judge to  
14 the Secretary or Labor for the opportunity to  
15 make such a determination.

16 “(4) PROCEDURES.—

17 “(A) WITNESSES AND EVIDENCE.—The  
18 Administrative Law Judge shall have the power  
19 to issue orders requiring the attendance and  
20 testimony of witnesses and the production of  
21 evidence under oath. Witnesses shall be paid  
22 the same fees and mileage that are paid wit-  
23 nesses in the courts of the United States.

24 “(B) CONTUMACY.—In the case of contu-  
25 macy, failure, or refusal of any person to obey

1 the order issued under subparagraph (A), any  
2 district court of the United States or of any  
3 territory or possession, within the jurisdiction  
4 of which the inquiry is carried on, or within the  
5 jurisdiction of which said person who is guilty  
6 of contumacy, failure, or refusal is found, or re-  
7 sides or transacts business, upon an application  
8 by the petitioner, shall have jurisdiction to issue  
9 to such person an order requiring such person  
10 to appear before the Administrative Law Judge  
11 or a representative designated by the Adminis-  
12 trative Law Judge, to produce evidence if, as,  
13 and when so ordered, and to give testimony re-  
14 lating to the matter under investigation or in  
15 question, and any failure to obey such order of  
16 the court may be punished by said court as a  
17 contempt thereof. The Administrative Law  
18 Judge shall then issue a decision as to whether  
19 wage payments have been made in accordance  
20 with section 1(a).

21 “(5) REVIEW BY SECRETARY.—

22 “(A) IN GENERAL.—Within 60 days of the  
23 date of issuance of the decision by an Adminis-  
24 trative Law Judge pursuant to paragraph (4),  
25 the petitioner or the employer that responded to



1 the petition may request the Secretary of Labor  
2 to review the decision of the Administrative  
3 Law Judge.

4 “(B) FINAL AGENCY ACTION.—The deci-  
5 sion of the Administrative Law Judge shall be  
6 deemed to be a final agency action if no request  
7 for review is made within the 60-day period de-  
8 scribed in subparagraph (A). If such a request  
9 is filed, the Secretary shall review the record  
10 and either adopt the decision of the Administra-  
11 tive Law Judge or issue exceptions. The deci-  
12 sion of the Administrative Law Judge, together  
13 with any exceptions, shall be deemed to be a  
14 final agency action.

15 “(6) DECISION.—The decision of the Adminis-  
16 trative Law Judge, or the Secretary of Labor on a  
17 petition under this subsection for the review of wage  
18 payments under a contract may include—

19 “(A) the awarding of damages to the peti-  
20 tioner in an amount equal to the wages or  
21 fringe benefit contributions that the responding  
22 employer failed to pay in accordance with sec-  
23 tion 1(a);

24 “(B) the awarding of damages to the peti-  
25 tioner in an amount equal to twice the amount

1 of wages not paid in accordance with section  
2 1(a), if it is found on review of the petition that  
3 the responding employer willfully refused to pay  
4 wages in accordance with such section; and

5 “(C) in addition to any award to the peti-  
6 tioner, a reasonable attorney’s fee to be paid by  
7 the responding employer and the cost of the ac-  
8 tion.”.

9 **SEC. 3. AMENDMENTS TO THE COPELAND ACT.**

10 Section 2 of the Act of June 13, 1934 (commonly  
11 referred to as the “Copeland Act”) (40 U.S.C. 276c), is  
12 amended to read as follows:

13 **“SEC. 2. REGULATIONS GOVERNING CONTRACTORS AND**  
14 **SUBCONTRACTORS.**

15 “(a) REGULATIONS.—

16 “(1) IN GENERAL.—The Secretary of Labor  
17 shall promulgate regulations for contractors and  
18 subcontractors engaged in the construction, prosecu-  
19 tion, completion, repair, or alterations of buildings  
20 or works subject to the Act of March 3, 1931 (40  
21 U.S.C. 276a et seq.), or to the requirement of pay-  
22 ment of wages determined in accordance with such  
23 Act.

24 “(2) REQUIREMENTS.—The regulations under  
25 paragraph (1) shall include provisions—

1           “(A) requiring contractors and subcontractors to submit, along with each payment request under the contract, a signed statement certifying that all persons employed in the performance of work under the contract have been paid the full amount of wages earned without deductions, except as permitted by regulations under this Act, during the period covered by the payment request and certifying that all payroll records maintained or submitted by the contractor or subcontractor under subsections (b) and (c) are correct and accurate; and

13           “(B) requiring lessors to submit monthly, during the period of construction subject to the prevailing wage provisions of the Act of March 3, 1931, a signed statement certifying that all persons employed in performance of work under the contract have been paid the full amount of wages earned without deductions, except as permitted by regulations under this Act, during the period covered by the payment request and certifying that all payroll records maintained or submitted by the contractor or subcontractor under subsections (b) and (c) are correct and accurate.

1 Section 1001 of title 18, United States Code (Crimi-  
2 nal Code and Criminal Procedure) shall apply to  
3 such statements.

4 “(b) ADDITIONAL REQUIREMENTS.—In the case of  
5 contracts that exceed the applicable threshold set forth in  
6 paragraph (1) of subsection (b) of the Act of March 3,  
7 1931 (40 U.S.C. 276a(b)) (as adjusted under paragraph  
8 (4) of subsection (b) of such Act), the regulations under  
9 subsection (a)(1) shall provide that all contractors and  
10 subcontractors shall furnish—

11 “(1) with respect to persons employed to per-  
12 form work under such contracts, not later than the  
13 10th day of each month, a payroll statement that  
14 sets forth at least the—

15 “(A) name and address;

16 “(B) social security number;

17 “(C) employment classification;

18 “(D) number of hours worked daily and  
19 during the payroll period; and

20 “(E) hourly rates of wages paid (including  
21 rates of contributions or costs anticipated for  
22 bona fide fringe benefits), all deductions made,  
23 and actual wage paid,

24 for each such person for each payroll period ending  
25 during the preceding calendar month; and

1           “(2) at the time such contractors and sub-  
2 contractors submit under paragraph (1) the initial  
3 and final payroll statements with respect to a con-  
4 tract described in this subsection, the—

5                   “(A) name and address of each plan, fund,  
6 or program—

7                           “(i) to which contributions are made;

8 or

9                           “(ii) on behalf of which costs are in-  
10 curred for bona fide fringe benefits; and

11                   “(B) amount of each such contributions or  
12 costs.

13           “(c) PAYROLL RECORDS.—

14                   “(1) IN GENERAL.—Each contractor and sub-  
15 contractor shall maintain payroll and other basic  
16 records relating to payroll as required by regulations  
17 issued by the Secretary of Labor and shall preserve  
18 the records for a period of 3 years after completion  
19 of the contract work.

20                   “(2) SUBMISSION OF RECORDS.—

21                           “(A) IN GENERAL.—The contractor or  
22 subcontractor shall submit payroll and related  
23 records to the contracting officer or the author-  
24 ized representatives of the Secretary of Labor

1           upon request, and make payroll and related  
2 records available for inspection upon request.

3           “(B) SUSPENSION OF PAYMENTS.—If a  
4 contractor or subcontractor fails to make  
5 records available in a timely manner as required  
6 herein, the Secretary of Labor or authorized  
7 representatives of the contracting officer may  
8 suspend all payments to the contractor or sub-  
9 contractor.

10           “(C) STATEMENT.—Notwithstanding the  
11 provisions of section 552 of title 5, United  
12 States Code, any statement provided under this  
13 section, with the exception of social security  
14 numbers, may be obtained by any person from  
15 any department or agency that is required by  
16 law, regulation, or the terms of a contract or  
17 grant to maintain a record of such statement.

18           “(3) SUBPOENA.—The Secretary of Labor may  
19 require, by subpoena testimony and the production  
20 of payroll and related records, access to which is  
21 provided by this section. Any such subpoena in the  
22 case of contumacy or refusal to obey, shall be en-  
23 forceable by order of an appropriate United States  
24 district court.

1           “(4) DEBARMENT.—The Secretary of Labor  
2           may debar contractors, subcontractors, or other per-  
3           sons pursuant to section 3(a)(2) of the Act of March  
4           3, 1931 who fail to submit payroll records when re-  
5           quested to do so or who fail or refuse to make pay-  
6           roll records available for inspection, including con-  
7           tractors and subcontractors who fail to retain re-  
8           quired records, or who maintain or provide false  
9           payroll records.

10           “(5) PENALTY.—Any contractor, subcontractor,  
11           or other person whose duty it shall be to employ, di-  
12           rect, or control any laborer or mechanic employed in  
13           the performance of any contract to which this Act  
14           applies and who, other than inadvertently, provides  
15           false payroll records to the United States under any  
16           mechanism provided for in this section, shall be sub-  
17           ject to a fine of not to exceed \$25,000.

18           “(d) APPLICABILITY.—This section shall not apply to  
19           any contract or project that is exempt by its size from  
20           the application of the Act of March 3, 1931 (commonly  
21           referred to as the ‘Davis-Bacon Act’) (40 U.S.C. 276a et  
22           seq.).”.

1 **SEC. 4. CONTRACT WORK HOURS AND SAFETY STANDARDS**

2 **ACT.**

3 (a) REPORTING OF VIOLATIONS.—Section 104(a) of  
4 the Contract Work Hours and Safety Standards Act (40  
5 U.S.C. 330(a)) is amended by striking “Comptroller Gen-  
6 eral of the United States” and inserting “Secretary of  
7 Labor”.

8 (b) WILLFUL OR GROSSLY NEGLIGENT VIOLA-  
9 TIONS.—Section 107 of the Contract Work Hours and  
10 Safety Standards Act (40 U.S.C. 333) is amended—

11 (1) in subsection (d)(1), by striking “Comptrol-  
12 ler General” and inserting “General Services Admin-  
13 istration”; and

14 (2) in subsection (d)(2), to read as follows:

15 “(2) The General Services Administration shall in-  
16 clude each name so transmitted on the Governmentwide  
17 List of Parties Excluded From Federal Procurement and  
18 Nonprocurement Programs. No contract shall be awarded  
19 to the person or firm appearing on the list or to any firm,  
20 corporation, partnership, or association in which such per-  
21 son or firm has a substantial interest until 3 years have  
22 elapsed from the date the name of the person or firm is  
23 entered on the electronic version of the list.”.

24 **SEC. 5. EFFECTIVE DATE.**

25 The amendments made by this Act shall apply to all  
26 contracts entered into pursuant to negotiations concluded,



1 or invitations for bid issued, on or after 180 days from  
2 the date of enactment of this Act.

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