

104TH CONGRESS
1ST 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.

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

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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